for cage

TOWN OF WAYLAND

WARRANT for SPECIAL TOWN MEETING

Tuesday, November 1, 2005 7:30 P.M.
Wayland High School Field House

DOORS OPEN AT 6:00 P.M.

www.wayland.ma.us

NOTICE

The Town of Wayland does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Wayland does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 (ADA).

Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to Wayland's designated ADA Compliance Coordinator.

Name:	John Senchyshyn
Title:	Human Resources Director/Assistant Executive Secretary
Office Address:	41 Cochituate Road, Wayland MA 01778
Phone Number:	(508) 358-3623
Fax Number:	(508) 358-3627
TDD:	(508) 358-0194 or 911
Days/Hours Available:	Monday, 8:30 a.m. to 7:00 p.m. Tuesday to Thursday, 8:30 a.m. to 4:00 p.m. Friday, 8:30 a.m. to 12:30 p.m.

Individuals who need auxiliary aids for effective communication in programs and services of Wayland are invited to make their needs and preferences known to the ADA Compliance Coordinator. A minimum of fourteen days' notice is required.

This notice is available in large print and on audio tape from the ADA Compliance Coordinator.

TOWN OF WAYLAND

2005 SPECIAL TOWN MEETING WARRANT

Special Town Meeting will start at 7:30 p.m.
on Tuesday, November 1, 2005

Doors will open at 6:00 p.m.

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Special Notice

We anticipate an unusually high attendance at the Special Town Meeting to be convened on Tuesday, November 1, 2005. Therefore, pursuant to Town Code:

"Any scheduled session of annual or special Town meeting where the total number of registered voters present in the facility would cause the occupancy limits of the facility to be exceeded, the Moderator shall immediately suspend the proceedings. Prior to continuing such session or adjourning, the Moderator, in conjunction with the Board of Selectmen, shall first announce an alternative location and time where all registered voters who wish to be present can enter and fully participate in the proceedings." [Added 5-12-2004 Annual Town Meeting by Article 36]

Therefore, in order to comply with this Bylaw, the following plan for participating at this Special Town Meeting is outlined below:

Special Town Meeting, Facilities, Check-In and Seating

- Field House: Once capacity is reached, Special Town Meeting participants will be instructed to proceed to the Little Theater.

- Little Theater: You will be checked in, and you must be seated to participate. An Assistant Moderator will be present. There will be operational video/audio equipment so you can view, hear and interact in all proceedings taking place in all venues. Once capacity is reached in the Little Theater, Special Town Meeting participants will be instructed to go to the High School Cafeteria.

- Cafeteria (Commons): You will be checked in, and you must be seated to participate. An Assistant Moderator will be present. There will be operational video/audio equipment to view, hear and interact in all proceedings taking place in all venues.

Special Town Meeting Parking and Transportation

- Car Pooling: It is critically important, in order to maximize attendance and participation at the Special Town Meeting, that you car pool to the designated parking locations. Traffic control and parking will be one of the greatest challenges to making this Special Town Meeting run efficiently. Please coordinate with your neighbors and friends.

- High School Parking: The High School parking lot can accommodate 382 vehicles. Capacity will be reached quickly. Therefore, please plan accordingly.

  Satellite Parking: Once the High School parking lot is full, you will be directed to park at one of three (3) satellite parking facilities. For those coming from the Cochituate area, we ask that you park at the Middle School. For those coming from North and Central Wayland, we ask that you park at the Sandy Burr Country Club or St. Ann's Church.

  Six (6) yellow school buses will be used to transport participants to and from the Field House. Each bus can accommodate sixty-five (65) adults.

- Handicapped Parking will be available at the High School (25 marked spaces).

ADJOURNED MEETINGS

It is anticipated that if an adjourned meeting is necessary to complete action on this warrant, it will be held on Wednesday, November 2, 2005, subject to Special Town Meeting approval.

If you have any questions about the Articles, please attend **the Warrant Hearing on Monday, October 24, 2005, at 8:00 P.M.** at the Town Building. You may also call the Town Administrator's office at (508) 358-7755 before Special Town Meeting.

NOTICE REGARDING MOTIONS

This warrant for Wayland Special Town Meeting is issued by the Board of Selectmen and is served upon all residents by mail and by posting at the Town Building, the Wayland Public Library, the Cochituate Fire Station or the Cochituate Post Office, and at Happy Hollow School. It contains the agenda of subjects to be acted upon; i.e., the articles.

By state law, no action at the special town meeting is valid unless the subject matter is contained in the warrant. This requirement means only that the subjects to be acted upon must be sufficiently stated in the warrant to apprise voters of the nature of the matters with which the meeting is authorized to deal. It does not require that the warrant contain an accurate forecast of the precise action that the meeting will take upon those subjects. A valid motion may differ from the underlying article, but it must be within the scope of that article.

QUANTUM OF VOTE

The quantum of vote is specified in the warrant for each article.

For those articles involving appropriations which are anticipated to be provided by taxation or from available funds or transferred funds previously appropriated for another purpose, a majority quantum of vote is indicated. For articles which are anticipated to be funded by borrowing, a two-thirds quantum of vote is indicated.

Certain articles request the action of Town Meeting under its general legislative powers (i.e., to hear and accept reports, to appoint a committee, to adopt a resolution or "sense of the meeting" vote, etc.), and in such cases no particular statute is referenced. Town Counsel has advised that, as a matter of common law precedent in Massachusetts, such matters are decided by a majority vote.

NO SMOKING NOTICE

Voters are reminded that there is no smoking permitted on school grounds.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. *Town of Wayland*

WARRANT of the SPECIAL TOWN MEETING OF NOVEMBER 1, 2005

To any of the Constables of the Town of Wayland, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify all residents of the Town of Wayland who shall be qualified to vote in accordance with the provisions of Massachusetts General Laws, Chapter 51, Section 1, to meet in the High School Field House on

TUESDAY, NOVEMBER 1, 2005, AT 7:30 P.M.

to act on the following Articles:

ARTICLE 1: PAY PREVIOUS FISCAL YEAR UNPAID BILLS

Proposed by: Board of Selectmen *Estimated Cost: $17,153.37*

To determine whether the Town will vote to:

1. pay the following bills of the following prior fiscal years:

Vendor	Fiscal Year	Amount	Board
Choate, Hall & Stewart	2005	$210.00	Board of Selectmen
William August Esq.	2005	922.50	Board of Selectmen
Kopelman & Paige	2005	15,029.91	Board of Selectmen
Kopelman & Paige	2004	990.96	Board of Selectmen

2. appropriate a sum of money for the payment of the foregoing bills of prior fiscal years; and

3. provide for such appropriation by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing, or otherwise.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Nine-tenths – see Massachusetts General Laws Chapter 44, Section 64.

ARTICLE 2: REZONE THE REEVES HILL SITE AS A PLANNED WIRELESS COMMUNICATIONS SERVICES DISTRICT

Proposed by: Board of Selectmen

To determine whether the Town will vote to amend Chapter 198 of the Code of the Town of Wayland, the Zoning By-Laws of the Town, by:

A. Inserting under section 198-302.1.6 thereof the following new section 198-302.1.7:

302.1.7. A Planned Wireless Communications Services District that includes the land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A, and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA. 01778, dated August 11, 2005, a copy of which plan is on file in the office of the Town Clerk.

B. Adding said Planned Wireless Communications Services District to the Zoning Map referenced in Article 3 thereof.

C. Inserting after Article 15 thereof (Wireless Services District) the following new Article 15A (Planned Wireless Communications Services District):

ARTICLE 15A

Planned Wireless Communications Services District

§198-1550. Purpose
§198-1551. Location
§198-1552. Use Restrictions
§198-1553. Design Restrictions
§198-1554. Contents of Application
§198-1555. Liability Insurance; Removal and Removal Bond
§198-1556. Applicable Provisions
§198-1557. Town-Owned Emergency Equipment
§198-1558. Modification of Permitted Facilities

§198-1550. Purpose

1550.1. For the purposes of this Article 15A, "wireless communications facility" shall have the same meaning as in section 198-104.2, and "wireless communications services" shall have the same meaning as in section 198-1501.1. The purpose of this Article is to establish a district on or near the top of a geographically prominent hill in the Town, which has long been the subject of study and planning for wireless use in the Town, and in which wireless communications services may be provided while preserving and protecting the public health, safety and general welfare, while fulfilling the purposes of the Federal Telecommunications Act regarding provision of personal wireless services to the area capable of being served by the Planned Wireless Communications Services District and minimizing the number of wireless communications facilities in the Town. The Planned Wireless Communications

Services District has been created specifically to protect the general public from hazards, minimize visual impacts, protect the scenic, historic, natural and human-made resources of the Town and protect property values.

§198-1551. Location

1551.1. The Planned Wireless Communications Services District shall be located on land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A, and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated August 11, 2005, a copy of which is on file in the office of the Town Clerk.

1551.2. The Planned Wireless Communications Services District shall be construed as an overlay district with regard to said locations. In the Planned Wireless Communications Services District, all requirements of the underlying zoning district shall apply to uses other than a wireless communications facility or facilities; and the use and design restrictions of the Planned Wireless Communications Services District shall specifically apply to all wireless communications facilities.

§198-1552. Use Restrictions

1552.1. One wireless communications monopole may be constructed, operated, maintained and used by up to four wireless carriers in the Planned Wireless Communications Services District as of right, upon the issuance of a building permit therefor, provided that the proposed facility complies with the requirements of the State Building Code, 780 CMR, as applicable, plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated August 11, 2005, a copy of which is on file in the office of the Town Clerk, and with the Design Restrictions set forth below. A wireless communications facility conforming to the requirements of Article 15A may be constructed, operated, maintained and used in the Planned Wireless Communications Services District without the need for a special permit pursuant to section 198-203 and without the need for site plan approval under Article 6 of this Zoning Bylaw.

§198-1553. Design Restrictions

1553.1. A wireless communications facility in the Planned Wireless Communications Services District shall conform to the design restrictions set forth in this section.

1553.2. A free-standing wireless communications facility in the Planned Wireless Communications Services District shall be designed as a monopole tower with internally or closely ("flush") mounted antenna panels (with appropriate allowance for antenna tilting to meet coverage objectives consistent with minimizing adverse visual impact of the antennas) except as provided in section 1557.1 regarding equipment of the Town.

1553.3. Except as provided in sections 198-1557 and 198-1558 of Article 15A, the maximum

height of the monopole shall be 180 feet above ground level at the base of the monopole.

1553.4. A wireless communications monopole in the Planned Wireless Communications Services District shall be designed to conform to all applicable state structural and engineering codes, including, but not limited to the State Building Code, 780 CMR.

1553.5. A wireless communications monopole in the Planned Wireless Communications Services District shall be subject to the Conditions set forth in Attachment 1, the provisions of which are incorporated by reference herein.

§198-1554. Contents of Application

1554.1. The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall contain all of the information ordinarily required for a building permit for a communications tower or other unmanned structure, as applicable, provided however that the plans submitted with the application for a building permit ("Plans") shall be in lieu of an approved site plan for the proposed facility.

1554.2. Construction drawings for the proposed facility shall be consistent with the Plans identified in section 198-1554.1, and shall be stamped by a Massachusetts registered professional engineer.

1554.3. The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall be made by or on behalf of: (i) an FCC licensed wireless communications carrier; or (ii) by a tower building company or other person or entity having a binding lease or other agreement with at least one FCC-licensed wireless communications carrier to locate on the tower at the time it is constructed.

1554.4. The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall include a copy of the publicly available manufacturer's specification sheets for (i) the antennas, cables, and other equipment to be internally or flush mounted on the tower, and (ii) each equipment cabinet or equipment shelter proposed to be used for ground equipment within the fenced equipment compound at the base of the tower.

§198-1555. Liability Insurance; Removal and Removal Bond

1555.1. The tower owner and each of its tenants will carry during the term of their use the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of $5,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence, naming the Town of Wayland as an additional insured if permitted by the insurer; and (iii) Workers' Compensation Insurance as required by law. Annual proof of the insurance must be filed with the Town Clerk.

1555.2. Except as provided in section 198-1557.3, within six (6) months of the termination of use of the tower, the tower owner and its tenants will remove all of their respective

above-ground improvements and the tower owner will restore the site to its condition at the commencement of the tower use, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. The tower owner and its tenants will be responsible for reasonably replacing trees, shrubs and other vegetation at the site, but will not be required to remove from the site any below ground foundations or underground utilities.

1555.3. To ensure removal of the tower after termination of use of the tower, the tower owner must obtain a performance bond or other form of financial security, in an amount consistent with a removal cost estimate stamped by a Massachusetts registered professional engineer and deposit it with the Town, to be used for removal and site-restoration costs in the event that the tower owner fails to comply. The tower owner also agrees to allow the Town and its agents and employees the right to enter the property for the purpose of removing the monopole in the event that it is not removed after such cessation of use.

§198-1556. Applicable Provisions

1556.1. Section 198-1510 (Exemptions) shall also apply to this Article 15A.

§198-1557. Town-Owned Emergency Equipment

1557.1. The owner of any free-standing wireless communications monopole in the Planned Wireless Communications Services District shall permit the Town of Wayland, without charge, to mount antennas and equipment for the Wayland police department, fire department or other Town emergency services on and next to the tower; provided that (i) said Town antennas and equipment shall not interfere with pre-existing wireless communications services on the monopole, and (ii) the Town shall pay any costs associated with the installation of the Town's antennas and equipment.

1557.2. Town antennas mounted on the monopole may extend up to twenty feet above the top of the permitted height of the monopole and need not be closely-mounted to the monopole.

1557.3. In the event of termination, for a continuous period of six (6) months or more, of the use of the tower by all users except for the Town of Wayland, the tower owner may in lieu of removal of the tower convey the tower free of charge to the Town of Wayland, subject to the acceptance of the tower by the Town. In the event that the Town accepts the tower under this provision, the bond referred to in section 1555.3 shall thereupon be returned to the tower owner.

§198-1558. Modification of Permitted Facilities

1558.1. Any equipment permitted for a wireless communications facility in the Planned Wireless Communications Services District may be replaced with equal or similar brands or models and may be upgraded to newer or technically superior brands or models so long as there is no change in the monopole design or increase in signal strength, and if a building permit is required, upon the issuance of a building permit. Upon request of the Building Commissioner, made not more frequently than once

per year, each carrier shall provide updated specifications as to its equipment on the monopole in the Planned Wireless Communications Services District.

1558.2. A major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall consist of (i) a change in number of buildings or equipment cabinets located on the site compared to that shown on the Plans identified in section 198-1554.1, (ii) an increase in the height of the monopole compared to that shown on the Plans identified in section 198-1554.1, or (iii) an addition to the externally-visible equipment including the number of antennas on the monopole compared to that shown on the Plans identified in section 198-1554.1. Notwithstanding the provision of (i) and (iii) above, any subsequent change that only adds co-locators' antennas, buildings, or equipment cabinets for up to a maximum of four wireless carriers shall not constitute a "Major Modification" and shall not require Site Plan Approval under Article 6 of this Zoning Bylaw, whether or not the change was shown on the Plans identified in section 198-1554.1.

1558.3. A major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall require Site Plan Approval from the Planning Board under Article 6 of the Zoning Bylaw and a building permit from the Building Commissioner.

D. Inserting in section 198-701.1.2 the words "or Article 15A" after "Article 15" so that the section as amended reads as follows:

701.1.2. The limitations of height in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other necessary features usually carried above roofs, nor to towers or spires of churches and other buildings, if such features are in no way used for living purposes; provided, however, that no wireless communications facility shall be erected except in compliance with Article 15 or Article 15A.

ATTACHMENT 1

Conditions for A Wireless Communications Facility in the Planned Wireless Communications Services District under Zoning Bylaw Section 198-1553.5.

DEFINITIONS

For the purposes of the conditions below, the following definitions apply:

ZBA: the Wayland Zoning Board of Appeals

Building Commissioner: the Building Commissioner of Town of Wayland (or his designated agent)

Town: the Town of Wayland

FAA: the Federal Aviation Administration (or its successor agency)

FCC: the Federal Communications Commission (or its successor agency)

DPH: the Massachusetts Department of Public Health (or its successor agency),

Applicants, Tower Owner, Tenants: the applicants for a building permit,, the tower owner and the tower's tenants, respectively

PERMITS AND STANDARDS

A. **Other permits:** Except to the extent superseded by or inconsistent with the Judgment in the matter *AT&T Wireless Services of Massachusetts v. Town of Wayland, et al.,* United States District Court for the District of Massachusetts, Civil Action Docket No. 04-11807MLW (the "TCA Case"), the Applicants must obtain and comply with all other required municipal, state, and federal permits from regulatory authorities having jurisdiction in this matter.

B. **Structural integrity:** The 180-foot monopole tower must meet the Massachusetts Building Code provisions for seismic loadings and structural protection from wind and ice and shall be designed to support a height at least 20' above tower height.

C. **Radiofrequency emissions**: The tenants' use of the monopole tower must be fully compliant with federal requirements on radio frequency emissions and the provisions of the Wayland Zoning Bylaw, §198-1503.2.16, to the extent lawful, reasonable and applicable and not inconsistent with regulations adopted by the FCC.

D. **Monitoring standards:** Monitoring, testing, and inspection must be in accordance with the regulations of the FCC and, to the extent lawful, reasonable and applicable, DPH.

E. **ANSI standards:** The monopole tower and its transmission must comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter, if and to the extent adopted by the FCC.

F. **Construction traffic control:** Prior to the issuance of a building permit and the start of construction, the Applicants must meet with representatives from the Building Department, the Police Department, the Highway Department, the Conservation Commission, and any other relevant Town officials to discuss staging areas, traffic issues, and other construction-related matters. The Applicants must bear the cost of any reasonable and necessary temporary traffic controls associated with the construction.

G. **Construction inspections:** An independent, Massachusetts-registered professional engineer who is not affiliated with any of the Applicants, at the Applicants' reasonable expense, must review all the construction documents, review and approve all quality-control procedures, and inspect the site at appropriate intervals. The reviews and inspection results must be included in a certified report, submitted to the Building Commissioner, attesting that the construction of the facility complies with the Judgment in the TCA Case and other applicable building and safety codes.

H. **Construction:** All materials shall be assembled and constructed on the site by contractors licensed by the Commonwealth of Massachusetts, with insurance and bonding mutually acceptable to the Applicants and the Wayland Building Commissioner.

I. **Maintenance:** The monopole tower and associated equipment mounted on the tower at the site shall be subject to periodic inspection and maintenance, to ensure their structural and mechanical integrity, and to avoid structural, mechanical and other failures. This periodic inspection and maintenance must occur at least every year. The Tower Owner must submit a report to the Building Commissioner indicating, among other details, the date of the inspection, the personnel performing the inspection, and the results. If any changes or repairs to the tower are performed as a result of the maintenance inspection, the Tower Owner should file a supplemental report after the repairs. Each report is due within 7 business days of the inspection or repair. In the event the Tower Owner fails to conduct a required inspection or to submit a required report, the Town shall notify the Tower Owner and all FCC-licensed carriers collocating on the tower of this alleged omission; and the Tower Owner or any carrier collocating on the tower shall have 45 days to conduct the required inspection and submit the required report before the Town may commence any enforcement action with respect thereto. [See also Condition V, below.]

J. **Removal:** Within six (6) months of the termination of the use of the tower, the Tower Owner and its Tenants will remove all of their respective above-ground improvements and the Tower Owner will, to the extent reasonable, restore the site to its condition at the commencement of the tower construction, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. Notwithstanding the foregoing, the Tower Owner and its Tenants will not be required to remove from the site any foundations which are fully buried or underground utilities, but shall remove any such materials which reach or protrude above the surface. [See also Condition T, below.]

VISUAL IMPACT

K. **Screening vegetation:** To mitigate against visual impacts on the neighborhood, the Tower Owner must, during construction, not permit any contractor to place or stockpile construction materials on the root zones of the existing vegetation and mature trees or to disturb the root zones of the mature trees (the "root zone" being an area around the base of the tree equal to the width of the canopy). The Tower Owner must replace any mature tree on the site that dies within 4 years of the construction unless the death was from natural causes or caused by activity other than that of the Tower Owner or its Tenants. The replacement vegetation must be a fast-growing species at least 15 feet high when planted.

L. **Fencing and landscaping:** The fencing surrounding the installation and accessory equipment, which will serve to control access to the facilities and the monopole tower, must be an 8-foot high locked black or green chain link fence topped by three strands of barbed wire. The fence must be kept in good repair, at the Tower Owner's expense, and screened to the east (except for an access gate) by evergreen vegetation (at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting to effectively screen the tower base and accessory facilities), which vegetation must be also maintained and replaced if it dies.

M. **Lighting and Noise:** No permanent lighting can be placed to shine on or otherwise illuminate the monopole, unless required by the FAA. Lighting on the monopole shall be limited to that needed for emergencies or as required by the FAA. Any lighting placed at the base to facilitate inspection and maintenance must be turned off when the inspection/maintenance personnel are not present. No flag shall be flown or displayed on the monopole. Noise generation shall be in accordance with the provisions of the Wayland Zoning

Bylaw, §198-1503.2.16 to the extent reasonable, applicable and lawful.

N. **Concealment:** All equipment must be concealed behind the fencing. All antennas must be flush (closely) mounted to the outside of the monopole tower, with appropriate allowance for antenna tilting, to meet coverage objectives consistent with minimizing adverse visual impact of the antennas. The monopole tower must be constructed to ensure that no portion of the structure falls off in high winds or ice storms. The monopole tower must have a galvanized finish and its color shall be _____ .

O. **Collocators:** The Tower Owner must agree to provide access for FCC-licensed collocators, including space on the monopole tower and room at the base, within the chain link fencing, for related ground equipment. The facilities of Cingular Wireless and three additional FCC-licensed collocators within the tower and within the fence are hereby approved. All additional collocators must file a separate application with the ZBA.

P. **Signage:** The only signs allowed at the facility are no-trespassing/private property warning signs affixed to the fence and a required sign indicating whom to contact in the event of an emergency and the telephone number for that contact. As long as the monopole tower remains in use, this contact information must be kept current.

INDEMNITIES AND PROTECTIONS

Q. **Indemnification:** The Tower Owner shall indemnify the Town for any damage to the Town's water supply tanks or other structures and equipment in the vicinity of the facility caused by its facility.

R. **Corrosion protection:** The Tower Owner must supply proof that the manufacturer of the tower has added corrosion protection for the monopole and the base of the tower. All hardware must be galvanized, to prevent rust.

S. **Liability insurance:** The Tower Owner, each of its Tenants and all applicants will carry from the date of commencement of construction through the later of, the date of removal of the tower or termination of tower use, the following insurance, at a minimum: (i) "All Risk" property insurance for the replacement of all property on the site at replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of $5,000,000 combined single limit for bodily injury or death/property damage arising out of anyone occurrence, naming the Town as an additional insured, if permitted by the insurer; and (iii) Workers' Compensation Insurance as required by law. All insurance carriers shall be licensed in Massachusetts. Annual proof of such insurance must be filed with the Town Clerk.

T. **Removal bond:** Removal must be conducted in accordance with Condition J hereof. To ensure this, the Tower Owner must obtain a performance bond or other form of financial security, in an amount consistent with a removal cost estimate stamped by a Massachusetts registered professional engineer and deposit it with the Town, to be used for removal and site restoration costs in the event that the Tower Owner fails to comply. The Tower Owner also agrees to allow the Town and its agents and employees the right to enter the property for the purpose of removing the monopole in the event that it is not removed after such cessation of use, and Applicants warrant that the lease with the property owner will, for the duration of the lease, confirm this right to enter.

U. **Change in owner or lessee:** If the monopole tower as a whole, or any of its components, is sold, assigned, licensed or leased to an entity other than the original Applicant, the new owner or lessee must notify the ZBA in writing, within seven business days of the sale or transfer, with its name, address, telephone, and other contact information. [See also Condition P, above.] The new owner or lessee shall be subject to all of the provisions of these conditions.

V. **Right to Cure:** In the event the Applicants or the Tower Owner or any Tenant fails to perform any condition required of it hereunder within forty-five (45) days after receipt of written notice from the Town specifying the failure, then the Town may commence an enforcement action with respect thereto; provided, however, that no such failure will be deemed to exist if the Applicants, Tower Owner or any Tenant, as applicable, has commenced to cure such violation within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a violation will be excused if due to causes beyond the reasonable control of the Applicants, Tower Owner or any Tenant. In the event that a failure presents an imminent threat to the public health or safety, the Town may commence enforcement action within a shorter time period as may be warranted by the circumstances.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Two-thirds - see Massachusetts General Laws Chapter 40A, Section 5.

CONSISTENCY WITH LAW: It is the opinion of Town Counsel that the foregoing by-law amendment is consistent with Massachusetts and federal law.

ARTICLE 3: AUTHORIZE THE TRANSFER AND LEASE OF A PORTION OF REEVES HILL PROPERTY AND THE CONVEYANCE OF UTILITY EASEMENTS FOR WIRELESS COMMUNICATION PURPOSES

Proposed by: Board of Selectmen

To determine whether the Town will vote:

A. to instruct the Board of Water Commissioners, with the approval of Town Counsel as to form, to transfer the care, custody, management and control of all or any portion of the parcels of land and the structures thereon on and off Old Connecticut Path (East) shown as Parcels 26, 26A and 27 on Assessors Map 34 (the "Property") to the Board of Selectmen for the purpose of (i) leasing, as lessor, all or any portion of said land and structures to a company or companies which provide wireless communications services; and (ii) conveying a non-exclusive easement or easements for access, egress, and electric and telephone utilities on, in, over and under the Property to a company or companies which provide wireless communications services or public utilities relating thereto;

B. to authorize the Board of Selectmen, with the approval of Town Counsel as to form, to lease, as lessor, a portion of the Property to a company or companies which provide wireless communications services; and

C. to authorize the Board of Selectmen, with the approval of Town Counsel as to form, to convey a non-exclusive easement or easements for access, egress, and electric and telephone utilities on, in, over and under the Property to a company or companies which provide wireless communications services for the purpose of locating, relocating, erecting, constructing, reconstructing, installing, operating, maintaining, patrolling, inspecting, repairing, replacing, altering, extending and/or removing one or more overhead and/or underground telecommunications cables and lines for communication and/or electricity and any necessary transformers, manholes, hand holds, equipment, poles, wires, anchors, guys, braces, conduits, appurtenances and attachments incidental thereto to serve the needs of the Town and its present and future lessees on said land, upon terms and conditions as the Board of Selectmen deems appropriate.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: (a) Two-thirds - see Massachusetts General Laws 40, Section 15A. (b) and (c) Majority - see Massachusetts General Laws Chapter 40, Section 3.

ARTICLE 4: ADD MIXED-USE OVERLAY DISTRICT TO THE TOWN'S ZONING BY-LAWS

Proposed by: Planning Board

To determine whether the Town will vote to amend Chapter 198 of the Code of the Town of Wayland, the Zoning By-laws of the Town, by:

1.) Adding thereto the following new article:

Article 23
MIXED-USE OVERLAY DISTRICT

§198-2301. Purpose
§198-2302. Definitions
§198-2303. Overlay District
§198-2304. Approvals Process
§198-2305. Special Permit Decision
§198-2306. Special Permit Conditions
§198-2307. Time Limit
§198-2308. Dimensional Requirements
§198-2309. Performance Standards
§198-2310. Peer Review
§198-2311. Rules and Regulations
§198-2312. Relation to Other Requirements
§198-2313. Inapplicability of Certain Other Regulations.

§198-2301. Purpose.

2301.1. The purposes of the Mixed-Use Overlay District (hereinafter referred to as the "MUOD") include but are not limited to:

2301.1.1. promoting a range and balance of land uses;

2301.1.2. facilitating integrated physical design and encouraging interaction among activities;

2301.1.3. establishing controls which will facilitate development while protecting the public interest by limiting the aggregate amount of development;

2301.1.4. permitting flexible development on individual lots;

2301.1.5. promoting site features and layouts conducive to walking and bicycling;

2301.1.6. promoting a pedestrian-friendly living and working environment.

§198-2302. Definitions.

2302.1. The following definitions shall apply in the MUOD.

Concept Plan: A required submittal for a Mixed-Use Project Master Special Permit which provides a preliminary site plan for the Mixed-Use Project describing the proposed character, uses, site layout and public amenities incorporated therein. The requirements for the submittal of a Concept Plan are set forth in Section 198-2304.2.

Gross Floor Area: As defined in Section 198-104.

Master Special Permit Plan: A required submittal for a Mixed-Use Project which, as described in the Planning Board's rules and regulations, defines, in detail, the site, the site plan, the proposed uses, site improvements, traffic impacts and their mitigation, environmental impacts and their mitigation, future division of the property, and other information required for the public and boards of the Town of Wayland. Compliance with the Master Special Permit Plan, as approved by the Planning Board, shall be a condition of any development of a Mixed-Use Project.

Mixed-Use Project ("Mixed-Use Project"): A combination of retail, office, municipal, service establishments and residential uses, as may be approved by the Planning Board for the Mixed-Use Overlay District by the issuance of a Mixed-Use Project-Master Special Permit, as defined below.

Mixed-Use Project-Master Special Permit ("Mixed-Use Project-MSP"): The initial Special Permit that an applicant must obtain as a precondition to obtaining any Site Plan approvals as provided for in Section §198-2304.

MUOD: The Mixed-Use Overlay District ("MUOD") comprising the land as shown on Plate 23 of the Atlas of the Town of Wayland, Massachusetts, 2002, numbered as Parcels 23-052, 23-052B, 23-052C , and 23-052F, and as shown on the plan entitled "Town of Wayland Mixed-Use Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA. 01778, dated September 6, 2005, a copy of which is on file in the office of the Town Clerk.

Phase I Site Plan: A required submittal for a Mixed-Use Project, as set forth in Section 198-2304.4.3.

Phase II Site Plan: A required submittal for a Mixed-Use Project, as set forth in Section 198-2304.4.4.

§198-2303. Overlay District.

2303.1 The MUOD is an overlay district superimposed on all underlying zoning districts. All uses permitted by right or by Special Permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to the further provisions of this Article 23. Where the MUOD authorizes uses not otherwise allowed in the underlying district, the provisions of the MUOD shall control. The Planning Board shall be the Special Permit Granting Authority ("SPGA") for every Mixed-Use Project-MSP and any other Special Permit required in the MUOD. The Planning Board shall also serve as the Special Permit Granting Authority for Special Permits required under any other applicable overlay districts. Nothing herein shall be construed to supersede the provisions of other overlay districts applicable in the MUOD, except as set forth herein.

§198-2304. Approvals Process.

2304.1. Overview.

2304.1.1. Prior to applying for a building permit for a Mixed-Use Project, the applicant must submit to the Planning Board, and the Planning Board must approve, the following, in sequence:

2304.1.1.1. A Concept Plan;

2304.1.1.2. A Master Special Permit application;

2304.1.1.3. A Phase I Site Plan application.

2304.1.2. The Planning Board will promulgate and adopt rules and regulations governing applications in the MUOD. Such rules and regulations shall take effect upon their filing with the Town Clerk, and applications must be submitted on a form provided by the Planning Board and must be in accordance with those rules and regulations, as they may be amended from time to time.

2304.1.3. After approval of the Phase I Site Plan, no structure previously approved by a Phase I Site Plan may be re-used or changed structurally, and no exterior features may be changed, unless the applicant submits, and the Planning Board approves, a Phase II Site Plan application.

2304.2. Concept Plan.

2304.2.1. Prior to the application for approval of any Mixed-Use Project, a Concept Plan shall be filed with the Planning Board for review. The Concept Plan shall generally define the proposed character, uses, site layout and public amenities of a proposed Mixed-Use Project. The Planning Board shall determine whether the Concept Plan is in compliance with the provisions of this MUOD. The submission at a minimum shall include:

2304.2.1.1. A preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking, landscaping, roads, walkways and access ways, open space, and wetlands;

2304.2.1.2. A preliminary utilities plan showing the proposed location and types of water, including hydrants, wastewater and general location and type of stormwater facilities;

2304.2.1.3. A preliminary lighting plan including a photometric plan and general information regarding light poles, bases and fixtures;

2304.2.1.4. A preliminary signage plan for the MUOD;

2304.2.1.5. A preliminary subdivision plan(s), if applicable; and

2304.2.1.6. Proposed buildings as to location, use classification, general architectural design and size.

2304.2.2. The Planning Board shall solicit public comment on the Concept Plan. Thereafter, the Planning Board shall determine that (i) the Concept Plan has been approved; or (ii) the Concept Plan has been approved subject to modifications suggested by the Board or agreed upon by the Applicant; or (iii) the Concept Plan has been disapproved. The Planning Board shall advise the Applicant of the Planning Board's determination within ninety (90) days following submittal of the Concept Plan, unless such time period is extended by written agreement of the Planning Board and the Applicant. If the Board disapproves the submitted Concept Plan, such notice shall provide the reasons for the Planning Board's determination. The determination of the Planning Board on the submitted Concept Plan shall be advisory in nature and shall be without binding effect on either the Planning Board or the Applicant.

2304.3. Mixed-Use Project Master Special Permit.

2304.3.1. Every Mixed-Use Project within the MUOD must obtain a Mixed-Use Project-MSP issued by the Special Permit Granting Authority. The purpose of the Mixed-Use Project-MSP is to specify the design, architectural character, site and traffic improvements, mitigation, specific location and uses for buildings and public amenities of a proposed Mixed-Use Project.

2304.3.2. No Mixed-Use Project-MSP shall be granted unless the Mixed-Use Project is in compliance with the performance standards set forth in Section 198-2309.

2304.3.3. A Mixed-Use Project-MSP shall govern all future development in a particular Mixed-Use Project. All construction and associated improvements must be in compliance with the Mixed-Use Project-MSP.

2304.3.4. The applicant must supply the Planning Board with sufficient copies of the application for a Mixed-Use Project-MSP, along with all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials, such as the Conservation Commission, Fire Chief, Police Chief, Board of Health, Building Commissioner, Board of Road Commissioners, Water Commissioners, Wastewater Management District Commission, Finance Committee, Park and Recreation Commission, Board of Selectmen, and others as designated in the rules and regulations governing applications in the MUOD, for their review and comment.

2304.3.5. Any proposed structure or improvement to the site must be in compliance with the Mixed-Use Project-MSP. Anyone seeking in the future to construct any structure, make any site improvement, or change to a different use must apply to the Planning Board for modification of the approved Mixed-Use Project-MSP. Such modification must meet all the performance standards then in effect.

2304.4. Special Permit and Site Plan Review within the MUOD.

2304.4.1. Within a Mixed-Use Project, the uses available are set forth in Table A "Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP." The Table sets forth uses allowed either: (i) as allowed subject to issuance of a Mixed-Use Project-MSP; or (ii) allowed subject to issuance of a Mixed-Use Project-MSP and by a separate Special Permit. All other uses within the MUOD are prohibited. In the Mixed-Use Project-MSP, the Planning Board may coordinate applications for Site Plan Review and individual Special Permits to ensure an orderly development process.

2304.4.2. Special Permits

2304.4.2.1. Uses set forth in Table A "Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP" as allowed subject to issuance of a Mixed-Use Project-MSP and by a separate Special Permit shall be allowed only upon the grant of a separate Special Permit, in addition to the Mixed-Use Project-MSP. Such use Special Permit must be obtained prior to either Phase I Site Plan approval or Phase II Site Plan approval, and may be applied for in conjunction with either a Phase I or Phase II Site Plan Review.

2304.4.2.2. Any Special Permits required under Table A "Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP" or Table B "Table of Dimensional Requirements in the Mixed-Use Overlay District" may be incorporated into the Mixed-Use Project-MSP and may be obtained during the Mixed-Use Project-MSP approval process or in a subsequent application seeking such a modification of the Mixed-Use Project-MSP.

2304.4.3. Phase I Site Plan Review.

2304.4.3.1. The purpose of a Phase I Site Plan Review shall be to ensure that any proposed building or site improvement is in compliance with the Mixed-Use Project-MSP and the uses approved therein. Prior to the issuance of a building permit for the construction of a building which will contain a use listed as allowed in Table A "Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP", the Planning Board shall conduct a Phase I Site Plan Review. A Phase I Site Plan Review at a minimum shall include the following components: building design and elevations; signs; landscaping; lighting; parking; and compliance with the Mixed-Use Project-MSP.

2304.4.3.2. The Board shall review the application to determine whether the proposed building(s) and associated improvements are consistent with the performance standards set forth in Section 198-2309 and the specific conditions of the Mixed-Use Project-MSP. The Planning Board shall hold its first hearing only after receipt of a complete application. A written decision shall be rendered by the Planning Board, and filed with the Town Clerk,

within sixty (60) calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the Applicant. Any appeal from a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of M.G.L. Chapter 40A, Section 17.

2304.4.4. Phase II Site Plan Review.

2304.4.4.1. Phase II Site Plan Review shall apply to the following: (a) reuse of any structure for a different use, as long as the use is an allowable use in the MUOD pursuant to Table A "Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP"; and (b) any change in exterior features and site improvements such as signage, facades, landscaping, lighting, parking.

2304.4.4.2. The Planning Board shall review the application to determine whether the proposed changes are consistent with the Mixed-Use Project-MSP, the Phase I Site Plan Approval and the performance standards set forth in Section 198-2309. The Planning Board shall hold its first hearing only after receipt of a complete application. A written decision shall be rendered by Planning Board, and filed with the Town Clerk within sixty (60) calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the Applicant. Any appeal from of a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of M.G.L. Chapter 40A, Section 17.

§198-2305. Special Permit Decision.

2305.1. Any Special Permit shall be subject to the criteria set forth in Section 198-203 and the performance standards set forth in Section 198-2309.

2305.2. When the application is for a Mixed-Use Project-MSP, the Planning Board shall consider the following criteria, in addition to the criteria set forth in Section 198-203:

2305.2.1. Whether the Mixed-Use Project complies with the use regulations, dimensional requirements, and performance standards set forth herein;

2305.2.2. Whether the Mixed-Use Project is substantially in conformance with the Concept Plan approved by the Planning Board; and

2305.2.3. The Mixed-Use Project-MSP shall be granted in the MUOD by the Planning Board only upon the Board's written determination that the adverse effects of the proposed Mixed-Use Project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

2305.3. Where the application is for a Special Permit for building height in excess of 35 feet, in addition to the criteria set forth in Sections 198-203 and 198-2305.2, in order to grant a Special Permit, the Planning Board must find that such additional height will facilitate architectural variety, visual interest, building scale in relation to other buildings, and will not allow a building which is out of character with the neighborhood. Any such Special Permit may not be granted if it would or could be used to increase habitable space or be otherwise used for occupancy purposes.

2305.4. Where the application for a Special Permit is for a specific allowable use listed in Table A

"Mixed-Use Overlay District Table of Uses Available In Mixed-Use Project Following Approval of Mixed-Use Project-MSP", the additional criteria set forth in Section 198-203 also shall apply.

§198-2306. Special Permit Conditions.

2306.1. Where the Planning Board grants any Special Permit, the Board may impose additional reasonable conditions, safeguards and limitations on time and use, including, but not limited to, the following:

2306.1.1. A phasing schedule for construction of each component part of the project which ensures integration of residential, nonresidential, and municipal uses;

2306.1.2. A demolition and construction schedule, including a construction traffic management plan;

2306.1.3. Hours of operation, delivery times, and lighting schedule;

2306.1.4. Recording of approved Special Permits and Site Plans in the Middlesex South Registry of Deeds and, if registered land, in the Land Court prior to the issuance of any building permits;

2306.1.5. All development shall be in compliance with plans approved in the Mixed-Use Project-MSP and with all applicable federal, state, and local laws, rules, regulations and by-laws;

2306.1.6. If circumstances so warrant, with respect to a Mixed-Use Project-MSP, to require continued monitoring of off-site impacts to traffic and the environment in appropriate locations with regard to the locus of the MUOD development; and

2306.1.7. The Planning Board, or its designated representative, shall have the right to make inspections during the construction process.

§198-2307. Time Limit.

2307.1. Until such time as a Master Special Permit is issued for a Mixed-Use Project, and the appeal period following the Planning Board's decision has expired, the provisions of the underlying zoning shall solely govern the use and development of the property comprising the MUOD. At the time of the issuance of the first certificate of use and occupancy for a building within the MUOD, the underlying zoning, as established in Section 198-301, shall no longer be applicable in the MUOD. If no such Master Special Permit is issued, however, within 5 years after the effective date of this Article, the provisions of this MUOD shall expire, and, in such event, the underlying zoning in effect on the date of adoption of this Article, and any amendments thereto, shall govern the use of the property shown on the zoning map of the MUOD.

§198-2308. Dimensional Requirements.

2308.1. The dimensional requirements set forth in Table B "Mixed-Use Overlay District Table of Dimensional Requirements" apply to all Mixed-Use Projects and, to the extent Table B conflicts with the dimensions listed in the Table of Dimensional Requirements for the underlying zoning, Table B shall prevail. The following criteria apply to Table B:

2308.1.1. Minimum Total Area. All land within the MUOD must be located entirely within the

Town of Wayland.

2308.1.2. Maximum Building Height. Height shall be as defined in Section 198-701.1.2, as amended from time to time, except that penthouses shall refer only to mechanical penthouses and that none of the items referred to in that section are used for occupancy purposes. Height shall be measured in accordance with the provisions of Section 198-104.2.

§198-2309. Performance Standards.

2309.1. The development of a Mixed-Use Project in the MUOD shall comply with the following performance standards in lieu of those set forth elsewhere in the Town's Zoning Bylaw:

2309.2. Aggregate Limits.

2309.2.1. These standards are intended to: promote a range and balance of land uses; facilitate integrated physical design; and encourage construction within a Mixed-Use Project of integrated mixed-uses.

2309.2.1.1. The total amount of development within the MUOD, exclusive of any uses related to a wastewater treatment facility, shall be limited to 450,000 square feet of Gross Floor Area, of which 40,000 square feet of Gross Floor Area shall be dedicated to municipal uses.

2309.2.1.2. The non-residential component of any Mixed-Use Project shall be limited to 200,000 square feet of Gross Floor Area. Not more than 95% of such Gross Floor Area shall be dedicated to retail uses. Not more than 10% of such Gross Floor Area shall be dedicated to office uses.

2309.2.1.3. The residential component of any Mixed-Use Project shall be limited to 210,000 square feet of Gross Floor Area. There shall be no more than 120 dwelling units, and there shall be no more than 240 bedrooms. At least 70% of all dwelling units within any Mixed-Use Project shall be two-bedroom units. No unit shall have more than three bedrooms.

2309.3. Landscaping.

2309.3.1. These standards are intended to: promote the establishment, protection and enhancement of the natural landscape; ensure the appropriate use of plant material in new construction; preserve natural tree cover; and promote inclusion of new tree planting in order to reduce visual blight, noise and glare, prevent soil erosion, reduce stormwater runoff, increase ground water discharge, create shade, and reduce solar overheating.

2309.3.2. The Applicant shall prepare a landscaping plan showing that the Mixed-Use Project will meet these standards and the standards set forth in Section 198-606.

2309.4. Massing.

2309.4.1. These standards are intended to promote design of buildings in a traditional New England style and to create a Mixed-Use Project with an authentic, regional character to its buildings.

2309.4.1.1. Any buildings proposed for a Mixed-Use Project shall provide visual relief,

generally every thirty (30) feet, along the façade of each building.

2309.4.1.2. Building design throughout a Mixed-Use Project shall include designs which promote visual relief by including varying roof lines and roof heights.

2309.4.1.3. Buildings throughout a Mixed-Use Project shall include a mix of tenants and a mix of buildings containing multiple tenants.

2309.5. Screening and Buffer Requirements.

2309.5.1. These standards are intended to promote creation of visual barriers between features of the Mixed-Use Project from public streets and abutting properties. Such features shall include dumpsters or trash handling areas, mechanical equipment at ground level or rooftop, service entrances or utility facilities for building operation, loading docks or spaces, above-ground backflow preventers, and other components of the Mixed-Use Project as may be determined by the Planning Board.

2309.6. Signs.

2309.6.1. These standards are intended to promote signage which is in keeping with a New England town center and which is integrated into the overall architectural design of the Mixed-Use Project.

2309.6.2. The Applicant shall prepare sign criteria indicating aggregate signage, maximum sign area, and proposed lighting, demonstrating that signs in the Mixed-Use Project will meet or exceed the standards of Section 198-606 and the rules and regulations of the Planning Board governing the MUOD.

2309.7. Stormwater Management.

2309.7.1. These standards are intended to promote an improved stormwater management system and compliance with all applicable federal, state and local laws, rules, regulations and by-laws.

2309.7.2. The stormwater management system serving the Mixed-Use Project shall comply with the Stormwater Management Policy of the Commonwealth's Department of Environmental Protection (DEP), and any successor agency.

2309.8. Roadways.

2309.8.1. These standards are intended to: promote adequate access for emergency vehicles and normal traffic expected in the Mixed-Use Project; provide for safe pedestrian access; and maintain pedestrian flow between the residential portion and non-residential portion of the MUOD.

2309.8.2. The roadway(s) serving the Mixed-Use Project shall comply with the functional requirements of the Planning Board's Rules and Regulations governing the subdivision of land.

2309.9. Parking and Loading Standards.

2309.9.1. These standards are intended to: provide adequate parking for the Mixed-Use Project; allow for shared parking as appropriate; create parking fields separated by landscaped areas;

design off-street parking areas that minimize curb cuts within the Mixed-Use Project; and create safe and comfortable passageways for pedestrians.

2309.9.1.1. A Mixed-Use Project shall provide multiple small parking areas of fifty (50) or fewer spaces.

2309.9.1.2. Any larger parking areas shall be separated by buildings and/or landscape features.

2309.9.1.3. Small parking areas shall be designed to include sidewalks at the perimeter to promote safe pedestrian passage; larger areas may incorporate pedestrian corridors delineated by paving materials, plantings and/or bollards.

2309.9.1.4. The provisions of Sections 198-506 and 198-507 shall not apply to the Mixed-Use Project except that all off-street parking shall be subject to the provisions of Sections 198-506.6 and 198-506.7 and all off-street loading facilities shall be subject to the provisions of 198-507.

2309.9.2. An application for a Mixed-Use Project-MSP shall include a parking plan setting forth the number of parking spaces and loading areas, the location and design of same, including landscaping and lighting. The application shall also include a parking and loading study which supports such parking and loading plan. Such study shall be prepared by a qualified traffic engineer who is licensed by the Commonwealth of Massachusetts as either a Professional Traffic or Transportation Engineer or a Professional Civil Engineer with certification by the Transportation Professional Certification Board as a Professional Traffic Operations Engineer, as may be more fully described in the Planning Board's Rules and Regulations for the MUOD.

2309.10. Lighting.

2309.10.1. These standards are intended to: promote a lighting design within a Mixed-Use Project to ensure public safety and welfare; and protect the night sky from unnecessary ambient light. Any lighting plan submitted for a Mixed-Use Project, at a minimum, shall include the following:

2309.10.1.1. All lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA);

2309.10.1.2. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off. Where necessary to prevent light trespass or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property; and

2309.10.1.3. Security lighting shall be shielded and directed at a downward angle.

2309.10.2. The Applicant shall prepare a lighting study showing that the Mixed-Use Project will meet these standards and the standards set forth in Section 198-606.

2309.11. Open Space.

2309.11.1. These standards are intended to promote and ensure public common space within the MUOD. Any application for a Mixed-Use Project-MSP shall include provision for at least two (2) acres of contiguous upland open space to serve as a public commons, and additional suitable open space throughout the Mixed-Use Project to serve public purposes; provided, however, the Planning Board may approve a smaller open space area where such open space promotes the purposes set forth in this Section 2309.11.1. The Applicant shall prepare an open space plan indicating the bounds of such open space, and a plan for the ownership, operation and maintenance of the open space.

2309.12. Aquifer Protection.

2309.12.1. Any application for a Mixed-Use Project MSP shall be in compliance with Article 16; provided, however, that for the purposes of Section 198-302.2 and 198-1604.2, no land within the MUOD shall be construed to be a "residential lot." Notwithstanding any provision of Article 16 to the contrary, the impervious surface area of a Mixed-Use Project shall not exceed 65% of the upland area of the MUOD.

2309.13. Affordable Units.

2309.13.1. In lieu of Article 22, the following standards shall apply in the MUOD. At least 25% of the dwelling units shall be Affordable Units. The term "Affordable Unit" shall mean a dwelling unit reserved in perpetuity for rental or ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development ("DHCD") for rental or ownership units set forth in 760 CMR 45.03(4), as amended from time to time, in order that such Affordable Units shall be included in the DHCD Subsidized Housing Inventory. Affordable Units shall be subject to the following conditions:

2309.13.1.1. The Affordable Unit shall be affordable in perpetuity. A Deed Rider or other suitable restriction shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures.

2309.13.1.2. Where the Affordable Units are proposed for sale, the continuing enforcement of the Deed Rider through subsequent resales shall be the subject of a Monitoring Agreement and in accordance with Sections 198-22.7.3 and 198-22.7.6 of Article 22 of the Town's Zoning Bylaw.

2309.13.1.3. The Deed Rider and the Monitoring Agreement shall be drafted in compliance with 760 CMR 45.00 (Local Initiative Program), as amended from time to time, and guidelines promulgated thereunder. The Deed Rider and the Monitoring Agreement shall be subject to review and approval by the Planning Board and approved as to form by Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit.

2309.13.1.4. The Affordable Unit shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory.

2309.13.1.5. A right of first refusal in accordance with §198-22.7.7 of the Town's Zoning By-law shall be granted to the Town or its designee for a period not less than 120 days after notice

thereof.

2309.13.1.6. The Affordable Units shall satisfy the design and construction standards of the Local Initiative Program, 760 CMR 45.00, as amended from time to time, with regard to distinguishability from market rate units. It is the intent of this Article 23 that the Affordable Units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as Local Initiative Program units.

2309.13.1.7. Each Affordable Unit must be constructed, and an occupancy permit obtained, at the rate of one (1) Affordable Unit for every three market rate units.

2309.13.1.8. In computing the number of required Affordable Units, any fraction of a unit shall be rounded up, and the result shall be the number of Affordable Units to be built within the MUOD and not off site.

2309.14. Efficiency of Design.

2309.14.1. Every effort shall be made to design buildings and use materials and construction techniques to optimize daylight in building interiors, natural ventilation, energy efficiency, and to minimize exposure to and consumption of toxics and non-renewable resources and incorporate appropriate "green" design techniques.

§198-2310. Peer Review. The Planning Board, at the expense of the Applicant and pursuant to M.G.L. Chapter 44, Section 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, landscape architects, architects, wetlands scientists, lighting technicians, and attorneys, to review all Concept Plans, Special Permit applications and Site Plan Review applications.

§198-2311. Rules and Regulations. The Planning Board shall adopt rules and regulations for the implementation of this Article.

§198-2312. Relation to Other Requirements. The submittals and Special Permits of this section shall be in addition to any other requirements of the Subdivision Control Law that may apply.

§198-2313. Inapplicability of Certain Other Regulations. Where this Article specifies some standard or makes some other requirement contrary to a requirement set forth elsewhere in the Town's Zoning By-law, the provisions of this Article, as may be amended from time to time, shall govern.

2.) Inserting the following table immediately after the Table of Permitted Uses:

TABLE A
FOR ARTICLE 23
MIXED-USE OVERLAY DISTRICT
TABLE OF USES AVAILABLE IN MIXED-USE PROJECT
FOLLOWING APPROVAL OF MIXED-USE PROJECT-MSP

KEY

Y = ***Allowed subject to issuance of a Mixed-Use Project-Master Special Permit***
SP = ***Allowed subject to issuance of a Mixed-Use Project -MSP and by a separate Special Permit***
N = ***Prohibited***

PRINCIPAL USE	
RESIDENTIAL USES	
Multifamily dwelling (3 or more dwelling units)	Y
Dwelling unit above Office, Retail, or Service	SP
Single or two-family dwelling	N
Any multifamily dwelling containing more than 20 dwelling units	SP
OFFICE USES	
Professional offices such as accountants, attorneys, engineers, architects; medical and dental offices and licensed physical and mental health professionals	Y
Offices of sales agents; agents and representatives of manufacturing, distributing, insurance and wholesale companies without storing of goods for sale	Y
Administrative, general, executive and similar office space	Y
Diagnostic medical laboratories appurtenant to offices of physicians and dentists	SP
Residential sales or rental office	Y
Bank or financial institutions without drive-up window	Y
Bank or financial institutions with drive-up window	SP
Any use set forth above in a building with more than 20,000 gross square feet	SP
EXEMPT OR INSTITUTIONAL USES	
Religious use exempt per M.G.L. Chapter 40A, Section 3	Y
Educational use exempt per M.G.L. Chapter 40A, Section 3	Y
Child care facility exempt per M.G.L. Chapter 40A, Section 3	Y
Child care facility exempt per M.G.L. Chapter 40A, Section 3 with more than 2,500 gross square feet of Gross Floor Area	SP
Municipal uses	Y
Post Office	Y
Community Center and Public Recreation Space	SP
RETAIL USES	
Retail sales, not otherwise set forth, in a building less than or equal to 10,000 square feet of Gross Floor Area	Y
Retail sales, not otherwise set forth, in a building with more 10,000 but less than 20,000 square feet of Gross Floor Area	SP
Retail sales, not otherwise set forth, in a building with more 20,000 but less than 30,000 square feet of gross floor area	SP
Retail sales, not otherwise set forth, in a building with more than 30,000 square feet of Gross Floor Area	N
Retail sales in a building with more than 30,000 square feet of Gross Floor Area	N
Retail sales conducted with a applicable license outside a building	Y
Retail sales or rental of motor vehicles, trailers or motorized marine equipment	N
Food store, not to exceed 48,000 square feet of Gross Floor Area -- maximum one	SP
Shop of artist or craftsperson	Y

PRINCIPAL USE	
SERVICE ESTABLISHMENTS	
General service establishments, including appliance repair, radio or TV repair	Y
Personal service establishments, including barber, hairdresser, photography studio, decorator, stationer, dressmaking, tailor, shoe repair	Y
Dry cleaning or laundry establishment	SP
Dry cleaning or laundry pick-up station	Y
Travel agency or travel service	Y
Printers and similar shops or trades	SP
Any use set forth above in a building with more than 10,000 square feet of Gross Floor Area	SP
PLACE OF ASSEMBLY	
Outdoor commercial recreation other than campgrounds	SP
Theaters and cinemas	SP
Indoor commercial recreation, including tennis club, health or fitness club, day spa	Y
Any use set forth above in a building with more than 20,000 square feet of Gross Floor Area	SP
RESTAURANTS	
Restaurant and/or bakery, with no outside seating and no drive-up window	Y
Restaurant and/or bakery, with outside seating and no drive-up window	SP
Restaurant, fast-food	N
Any use set forth above in a building with more than 10,000 square feet of Gross Floor Area	SP
ALL OTHER USES	N
ACCESSORY USES	
Outdoor storage of products for sale	N
Cafeteria, lunch or soda counter, ice cream establishment or food service	SP
Uses and structures customarily incidental to principal use	Y
Outdoor display of goods for sale at retail establishment	Y
Child care facility (not to exceed 2,500 gross square feet)	Y
Bank automated teller machine	Y
Management or maintenance office (not to exceed 2,500 gross square feet)	Y
Parking structure	SP
Drive up windows	N
Photo processing if self contained process – separate store or within drug store	Y
Garage space – above or below ground	SP

(To be inserted after Table of Dimensional Uses)

TABLE B
FOR ARTICLE 23
TABLE OF DIMENSIONAL REQUIREMENTS IN THE MIXED-USE OVERLAY DISTRICT

REQUIREMENT	
Minimum Land Area for MUOD	50 contiguous acres
Minimum Lot Area for Building or Structure	None
Minimum Lot Frontage	None
Minimum setback from edge of curb, unless otherwise authorized by Special Permit	15 feet
Minimum setback from MUOD perimeter boundary, unless otherwise authorized by Special Permit	50 feet
Maximum Building Coverage of Lot	100%
Maximum Building Height for Residential and Municipal Uses See Section 198-2305.3 for Special Permit criteria.	35 feet as of right; up to 45 feet by Special Permit
Maximum Building Height for Nonresidential Uses See Section 198-2305.3 for Special Permit criteria.	35 feet as of right; up to 45 feet by Special Permit

3.) Inserting under Section 198-302.1.7 thereof a new Section 198-302.1.8:

302.1.10. A Mixed-Use Overlay District that includes the land as shown on Plate 23 of the Atlas of the Town of Wayland, Massachusetts, 2002, numbered as Parcels 23-052, 23-052B, 23-052C , and 23-052F, and as shown on the plan entitled "Town of Wayland Mixed-Use Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA. 01778, dated September 6, 2005, a copy of which is on file in the office of the Town Clerk.

4.) Adding said Mixed-Use Overlay District to the Zoning Map referenced in Article 3 thereof (See Map at Appendix C).

PLANNING BOARD COMMENTS: The maximum sizes allowed conflict with the Town's desired semi-rural character. The potential is great for introducing problems with traffic, water use, wastewater, and other items. There is a significant risk that the Planning Board will have insufficient power to control these negative impacts and the basic size and character of any proposed development. While crafting the By-law, the Planning Board relied on the execution of a definitive development agreement to capture important issues that would protect the Town, which were otherwise deferred from the By-Law. The absence of a definitive development agreement exposes the Town to risks that are not sufficiently covered by the By-law alone. Town Boards were unduly pressured and the resulting process did not serve the Town's best interest. For a full report of the Planning Board, please refer to Appendix D.

The Planning Board recommends against the Article by a vote of 5 to 0.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be

available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Two-thirds – see Massachusetts General Laws Chapter 40A, Section 5.

CONSISTENCY WITH LAW: It is the opinion of Town Counsel that the foregoing by-law amendment is consistent with Massachusetts and federal law.

ARTICLE 5: DEFICIENCY FUNDS REQUEST FOR SENIOR AND HANDICAPPED VAN

Proposed by: Council on Aging *Cost: $15,006*

To determine whether the Town will vote to appropriate a sum of money, up to $18,000, to be expended by the Council on Aging, to maintain transportation services committed to senior residents of the Town, residents with disabilities, and residents transitioning to work; and to insure the Town's compliance with conditions imposed by the Commonwealth when the Town received a 15-person van through a grant from the Commonwealth; and to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing, or otherwise.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B. Two-thirds for borrowing – see Massachusetts General Laws Chapter 44, Section 7.

ARTICLE 6: WASTEWATER USER FEES

Proposed by: Wastewater Management District Commission

To determine whether the Town will vote to authorize the Wayland Wastewater Management District Commission to petition the General Court of the Commonwealth of Massachusetts to revise Chapter 461 of the Acts of 1996 to permit the Wayland Wastewater Management District Commission the option of charging user fees based on user sewer capacity or charging user fees based on user water usage by adding at the end of the first paragraph of Section 7(a) of Chapter 461, <u>The Commission is authorized to charge fees, rates, rents, assessments, delinquency charges, and other charges based on user sewer capacity or on water usage at the discretion of the Commission</u> (underlining denotes added text)

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Majority – See Massachusetts Constitution Amendment Article 2, Section 8 (1).

ARTICLE 7: ACQUIRE LAND OF GILBERTS ON BRACKETT ROAD AND NOB HILL ROAD

Proposed by: Conservation Commission *Cost: Unknown*

To determine whether the Town will vote to:

1. Authorize the Board of Selectmen, with the approval of Town Counsel as to form, to acquire by purchase, gift, eminent domain, or otherwise, for conservation purposes, to be placed in the care and custody of the Conservation Commission, the fee or any lesser interest in all or part of the parcels of land located on Brackett Road and Nob Hill Road, Wayland Massachusetts, containing, in the aggregate, 5.34 acres, more or less, shown as Parcels B, C, and G (Parcels E and F) on a plan entitled "Plan of Land in Wayland, Massachusetts", dated September 19, 2000, prepared by Sullivan, Connors & Associates, and recorded with the Middlesex South Registry of Deeds as Plan No. 1214 of 2001, a copy of which plan is on file in the Office of the Town Clerk;

2. appropriate a sum of money to compensate the owner and/or acquire said parcels of land; and

3. provide for said appropriation by taxation, transfer from unappropriated available funds, transfer from available funds appropriated for other purposes, by borrowing, or otherwise.

FINANCE COMMITTEE COMMENTS: The Finance Committee has not had an opportunity to research, discuss and vote the special town meeting articles. We will therefore defer commentary and recommendation until the Special Town Meeting. Comments, recommendations, and votes will be available on the town website (www.wayland.ma.us) and at Special Town Meeting.

QUANTUM OF VOTE: Two-thirds – see Massachusetts General Laws Chapter 40, Section 14, and Chapter 44, Section 7.

APPENDIX A

THE MODERATOR'S RULES AND REGULATIONS GOVERNING WAYLAND'S TOWN MEETINGS

The following information may help you to participate fully in Wayland's town meetings, which have been held each year since 1639:

I. The Warrant

This booklet, which includes the Warrant for Wayland's Town Meeting, was compiled by the Selectmen and served upon all residents by mail and by posting at the Town Building, the Library, the Cochituate Fire Station or the Cochituate Post Office and the Happy Hollow School. It contains the agenda of the subjects to be acted upon (articles), including the omnibus budget proposed, if this is an annual meeting, the report and recommendations of the Finance Committee upon each article and additional information concerning the finances and administration of the Town to help us formulate our votes.

No action of this Town Meeting will be valid unless it shall have been taken under an article set forth in the Warrant.

Each article will be considered in the order in which it appears on the Warrant, unless the meeting shall have voted to do otherwise by a two-thirds vote.

II. The Voters

A. All residents of Wayland, who have been duly registered as voters, are urged to attend, participate, debate and vote at all annual and special town meetings subject to laws of the Commonwealth of Massachusetts, the By-Laws of the Town and these rules and regulations.

B. All other persons may attend and observe Wayland's town meetings so long as they remain seated in the special section that has been reserved for this purpose, unless the Moderator shall have authorized them to sit among the registered voters. And see paragraph IV.B.3 below.

C. A registered voter may bring his or her child(ren) to sit among the voters so long as the child(ren) sit(s) quietly beside his or her parent at all times.

III. The Moderator

The Moderator is elected by ballot for a three year term at the annual election of town officers to preside at all Town meetings during his or her term of office and is authorized by state law to regulate the proceedings, decide all questions of order and make public declaration of all votes, subject to the By-laws that Wayland has enacted to regulate the proceedings of town meetings. All rulings of the Moderator are final.

IV. The Meeting

A. The Call to Order

1. The Moderator will call each session of town meeting to order at 7:30 p.m., or as soon thereafter as the Town Clerk has determined that a quorum of one hundred registered voters has been checked into the hall.

2. All persons, who have not registered to vote in Wayland, including members of the press, must sit in the section reserved for non-residents, unless the Moderator has authorized them to sit

among the voters.

3. The Moderator will announce the number of each article about to be considered and invite a motion thereunder; the Moderator will omit the reading of the articles, unless a MAJORITY of the meeting shall vote otherwise.

B. To Address the Town Meeting

1. No person may address a town meeting until and unless he or she shall have been recognized by the Moderator. All persons shall, at the request of the Moderator, be silent.

2. All persons, who wish to be recognized, shall approach one of the three microphones placed at the front of the room, which most closely reflects the purpose for which they seek recognition:

a. The Procedural Microphone (in the middle) will be available to those who have been recognized by the Moderator and wish to offer:

1) The main motion under the article being considered and a presentation in support thereof;

2) The principal presentation in opposition to the main motion. See paragraph IV.C.2.a below;

3) An amendment to a main motion;

4) A question seeking information or guidance from the Moderator as to procedure, including a point of order;

5) An answer to a question seeking information; and

6) A point of order or procedural motion, such as:

a) a motion to terminate debate;

b) a motion challenging the Moderator's declaration of a vote;

c) a motion questioning the presence of a quorum; and

d) a motion to adjourn.

b. The "Pro" Microphone will be available to those persons recognized by the Moderator who wish to speak in support of a motion on the floor.

c. The "Con" Microphone will be available to those persons recognized by the Moderator who wish to speak in opposition to a motion on the floor.

The Moderator will normally recognize those persons, who are standing behind or seated near each microphone in a single file, in the order of their entry into that file, alternating between the Pro and the Con mikes; but reserves the right to recognize any person at any time, including a person who has not approached a

mike, a person who is handicapped or a person who has risen to a point of order. Any person whose remarks are not consistent with the purpose of the microphone that he has been permitted to use, shall yield the floor upon request of the Moderator.

3. If a person, who has not registered to vote, seeks permission to address the meeting, the Moderator will ask whether there are any objections. If there are any, he will immediately call for a voice vote. If the majority shall vote to hear the non-resident, the Moderator will give him/her the floor.

C. The Debate

1. When you have been recognized by the Moderator, address the Chair as follows: "Mr. Moderator, I am (Name) of (Street Address)." Then proceed as follows:

a. "I move that . . .";

b. "May I ask you . . ."; or
"May I ask through you (then state the question which you want a board, official, or previous speaker to answer);

c. "I rise to a point of order"; or

2. Once you have been recognized, you may offer any motion, amendment, argument, comment, suggestion or question relevant to the article then under consideration, unless the Moderator shall have authorized debate or invited comments upon subjects not listed in the Warrant; but

a. Any person who wishes to offer the principal presentation in support of, or in opposition to, the main motion under an article, must so notify the Moderator and complete the same within ten minutes, or less, and yield the floor. A light will warn you to conclude your remarks and yield the floor during the following minute.

b. All other persons who wish to address the Town Meeting shall, when recognized, complete their remarks in three minutes, or less, and yield the floor. The same one minute warning light will be turned on when you have used up the first two minutes.

c. You may be interrupted only by a question of privilege, a point of order, a request that you speak more distinctly or by the Moderator.

d. When you have completed your motion, question, or remarks, you relinquish your claim to the floor; and you must yield the floor upon request of the Moderator.

3. If you have a question concerning the legality or propriety of the proceedings, you may approach the Procedural Microphone and address the Moderator without waiting to be recognized, saying: "Mr. Moderator, I rise to a point of order." When you have been recognized, you must state the reason for your point, which may include that a motion is beyond the scope of the article under consideration, that the person who has the floor is not addressing the merits of the motion or that a quorum is not present. The Moderator will then rule on the point and his ruling is final.

4. If you wish to offer a motion within the scope of the article under consideration, follow the procedure outlined under paragraph IV. B and C above.

a. If your motion is the main motion, you must then declare that it is

identical word-for-word with the substantive portion of the article printed in the warrant which is then under consideration, or describe all of the substantive differences in wording between the article and the motion; otherwise the Moderator will permit no debate or action upon your motion.

b. If you plan to offer a main motion, which contains more than twenty-five words and differs significantly from the article printed in the Warrant, you must first print and distribute a copy thereof to those attending the session of town meeting at which said motion is presented.

c. No motion or amendment of a motion that exceeds ten words in length will be accepted, unless it shall have been offered to the Moderator in writing.

d. A motion that is not identical word-for-word with the substantive portion of the article printed in the warrant then under consideration will not be permitted, unless the Moderator shall determine that said motion is within the scope of the article; i.e., that it does not change the substantial character of the proposal described in that article.

e. The Moderator will permit no motion to appropriate and/or expend a sum of money, which exceeds the estimated cost set forth in the article then under consideration by fifteen (15%) percent, except for motions under the omnibus budget article and motions under a supplementary budget article that contemplates the appropriation of additional money for the current fiscal year to augment moneys previously appropriated and proposes to fund such appropriations by transfer from unappropriated funds, funds appropriated for another purpose or from funds received by the Town as grants or gifts.

f. The Moderator may rule on your motion, even if no one has risen to challenge that motion by way of a point of order.

5. You will not be recognized to speak on the merits of a motion if you have already spoken three times on its merits, but you may be recognized to answer a question put by another or to raise a procedural issue with respect to that motion.

6. Wayland's practice with respect to some common subsidiary motions is generally as follows:

a. You may amend a motion by moving to add and/or delete words to and/or from the main motion or by substituting a new motion therefor; but the Moderator permits no more than two amendments to a main motion *at a time*. A motion to amend is debatable and requires only a MAJORITY vote, even though the main motion may require a TWO-THIRDS vote.

b. You may move to refer a matter for further study, if your motion identifies the official or committee who shall conduct such study, how it shall report, when and to whom. In the event that you wish to establish a new committee for this purpose, the motion must specify the number of members who shall serve and who shall

appoint them. A motion to refer is debatable and may be amended and requires a MAJORITY vote.

c. You may move to advance or postpone consideration of an article listed in the Warrant. Such a motion is debatable, may be amended and requires a TWO-THIRDS vote.

d. You may move to lay an article on the table ("table"). Such a motion is NOT debatable or amendable and requires a TWO-THIRDS vote. A motion to remove such article from the table is also NOT debatable or amendable and requires a TWO-THIRDS vote.

e. You may ask the Meeting to take no action under an article by moving "that the article be passed over." Such a motion may be deemed a substitute for the main motion, is debatable, may not be amended, requires a MAJORITY vote and serves to dispose of the article under consideration.

f. Upon the expiration of sixty minutes after the main motion under any article shall have been seconded, the Moderator may terminate debate thereon, unless the Town Meeting shall have voted to extend the time available for further debate. The time needed to count the vote(s) upon the motion(s) under the article will not be included in the sixty minutes.

g. Although the Moderator has absolute authority to regulate the proceedings at town meetings, debate under a motion can be terminated only by a TWO-THIRDS vote of the Town Meeting. Therefore, if you believe that debate under a motion has gone on long enough, approach the Procedural Microphone, and, when you have been recognized, "move the previous question". If your motion receives a second, the Moderator will ask if anyone, who has not spoken to the motion under consideration, wishes to be recognized. If no one expresses such a wish by raising his or her hand, the Moderator will immediately terminate debate and take a vote upon your motion without permitting any amendment; but if one or more persons, who have not spoken to said motion, raise their hand, the Moderator may defer the termination of debate for a reasonable time to permit both sides of the issue to be heard. If a motion to terminate debate carries by a TWO-THIRDS vote, the Moderator will put the previous motion under consideration to a vote without further debate; but if said motion does not carry by a TWO-THIRDS vote, the Moderator will permit debate to continue.

h. If you wish to adjourn a session of the Town Meeting before all of the articles have been disposed of, you must specify the date and time when the Meeting shall resume. Such motion may be made at any time, is debatable, may be amended and requires a MAJORITY vote.

7. If an article of the Warrant has once been acted upon and disposed of, a motion to return to the article may be made at any time; however, debate and action on said motion shall be deferred until all other articles shall have been disposed of and shall occur in the numerical order of each such article. In any event, a motion to reconsider is debatable, may not be amended and requires a TWO-THIRDS

vote, unless it shall have been made before the article has been disposed of; in which event it requires a vote *equal to the quantum of the vote that was required to pass the motion under the article to be reconsidered.* If such motion carries, the Moderator will ask whether there is a new motion under the article to be reconsidered.

D. The Vote

Before calling for a vote, the Moderator will usually repeat the motion under consideration (as the same may have been amended), unless it is substantially identical to the article:

1. The Moderator will then ask all those in favor to say, "Aye". He will then invite those opposed to say, "No". If the Moderator is in doubt as to whether the motion has carried, he or she may call for another voice vote; or may ask those in favor to stand, before he asks those opposed to stand. Sometimes, the Moderator will reverse this procedure before declaring the vote.

2. If the Moderator is still in doubt, or if seven or more voters have immediately questioned his declaration of such vote, he will call for the tellers to help him take a standing counted vote -- two tellers for each section of the hall so that they may check each other's results. The Moderator will then repeat the motion and say, "All those in favor will rise and remain standing until counted." When the count has been completed, the Moderator will ask those who are opposed to stand and be counted. As soon as each team of tellers has agreed upon the count in their section, they will be asked to report their portion of the vote from the Procedural Microphone. When all of the tellers have reported, the Moderator will declare the vote and his declaration is final.

3. In the event that the law requires a vote of TWO-THIRDS or more to carry a motion, the Moderator will normally ask whether there is unanimous support for the motion; but if there is not such support, he will take a standing counted vote.

4. If a TWO-THIRDS vote is required to carry a subsidiary or procedural motion, such as a motion to terminate debate ("move the previous question"), the Moderator need not take a count, even though the voice vote upon such motion was not unanimous, if the Moderator shall have perceived that more than TWO-THIRDS of the voters voted in the affirmative. The Moderator shall then declare that such motion has carried and the Clerk shall record such declaration together with a note that there was "a scattering of nos."

5. In the event that there is a large number of voters in the hall and the Town Clerk shall have provided ballots and ballot counting machines (ballot machines) for the occasion, the Moderator may designate one or more such machines to receive "yes" votes and a number of machines to receive "no" votes and arrange to have them placed near the "pro" and "con" microphones respectively. The Moderator will then announce the color of the ballot that will be cast upon the main motion and direct the attention of the voters to the location of the pro and con machines. The voters will then rise and proceed row-by-row to the machine of their choice. A Teller will stamp the back of each voter's hand upon arrival at the ballot machine and hand him or her a ballot, which the voter will then deposit in the ballot machine. In order to assure the security of all ballots:

a. No one will be allowed to vote without a ballot, which bears the color announced by the Moderator.

b. No one will be permitted to cast a ballot if his or her hand does not bear the stamp of a Teller.

During the course of the aforesaid proceedings, the Moderator may ask for the unanimous consent of the meeting (a two-thirds [2/3] vote is required) to proceed to consideration of another Article. When he is ready to declare the vote, the Moderator will ask for the unanimous consent of the meeting to return to the Article (a 2/3 vote is required) under which the ballot shall have been taken.

When all of the ballots shall have been cast, the Tellers will extract from each ballot machine the tape that shows the number of votes cast in favor and the number of votes cast in opposition to the motion and hand the same to the Moderator. The Moderator will declare the vote upon disposition of the Article then under debate. The declaration of the Moderator is final."

6. In the event that a majority shall have voted that the vote on a particular motion shall be by secret ballot, the Moderator will ask the Tellers to come forward and take their places at the ballot boxes that will be placed at the front of the Hall by the Town Clerk. The Moderator will then announce the color of the ballot that will be cast upon the main motion and direct the attention of each section of voters to their respective ballot box. The voters will then rise and proceed row-by-row to their box, tear their ballots into two parts, deposit one half in the box, the other half in the discard box and return to their seat. In order to assure the security of all secret ballots:

a. No one will be allowed to vote without a ballot which bears the color announced by the Moderator.

b. No one will be permitted to cast a ballot until he or she shall have discarded the other half of the ballot into the discard box in the custody of the Teller.

c. No one will be permitted to leave the hall until after the meeting has adjourned, unless he or she shall have turned all of the ballots that have not actually been used during a vote to the Checkers at the door.

When all of the ballots shall have been cast, the Tellers will open the ballot boxes and count the ballots at the tables situated at the front of the Hall in front of the podium.

The Moderator will then ask for the unanimous consent of the meeting (a two-thirds [2/3] vote is required) to proceed to consideration of the next Article. When the Tellers have completed their count, they shall report their count to the Moderator, the Moderator will declare the vote upon disposition of the Article then under debate. The declaration of the Moderator is final.

The Moderator will then ask for the unanimous consent of the meeting to return to the Article (a 2/3 vote is required) under which the secret ballot has been taken.

7. In the event that a majority shall have voted that the vote on a particular motion shall be by secret ballot, the Moderator may, in the alternative, ask the Tellers to come forward and take their places at the ballot counting machines (ballot machines), which shall have been placed in voting booths by the Town Clerk at the front of the hall behind the Moderator. The Moderator will then announce the color of the ballot that will be cast upon the main motion and direct the attention of each section of voters to their respective ballot machine. The voters will then rise and proceed row-by-row to their respective machine. A Teller will stamp the back of each voter's hand upon arrival at the ballot machine and hand him or her a ballot, which the voter will then mark in the privacy of the voting booth and deposit in the ballot machine. In order to assure the security of all secret ballots:

a. No one will be allowed to vote without a ballot, which bears the color announced by the Moderator.

b. No one will be permitted to cast a ballot if his or her hand does not bear the stamp of a Teller.

During the course of the aforesaid proceedings, the Moderator may ask for the unanimous consent of the meeting (a two-thirds [2/3] vote is required) to proceed to consideration of another Article. When he is ready to declare the vote, the Moderator will ask for the unanimous consent of the meeting

to return to the Article (a 2/3 vote is required) under which the ballot shall have been taken.

When all of the ballots shall have been cast, the Tellers will extract from each ballot machine the tape that shows the number of votes cast in favor and the number of votes cast in opposition to the motion and hand the same to the Moderator. The Moderator will declare the vote upon disposition of the Article then under debate. The declaration of the Moderator is final."

E. Adjournment

1. Each session of a Town Meeting shall be adjourned by the Moderator (a) at 10:30 p.m., or as soon thereafter as the Meeting has disposed of the article then under consideration or postponed action thereunder, or (b) voted to adjourn at a different time.

2. No motion to dissolve the Town Meeting (to adjourn *sine die*) is in order until every article shall have been duly considered, acted upon and declared as disposed of.

V. Questions

In the event that you have a question concerning the conduct of the meeting or the status of any motion being considered, you are invited to approach the Procedural Microphone and to address your question to the Moderator as soon as you have been recognized.

Thank you for joining us tonight to do the Town's business.

C. Peter R. Gossels, Moderator
March 24, 2005

APPENDIX B

New Cingular Wireless and Horizon Towers
v.
Town of Wayland et al

Frequently Asked Questions & Answers

Litigation & Settlement

Why did the Selectmen and Zoning Board of Appeals decide to settle this case rather than litigate?

While the decision of the Zoning Board of Appeals (ZBA) denying the zoning variances was well documented and carefully drafted, the Selectmen and ZBA nonetheless were advised by Town Counsel and outside legal counsel that the Town was unlikely to win the lawsuit. The Selectmen and ZBA concluded that it was very likely that a Court ordered wireless communications tower would be built in Wayland in the very near term.

Settling the case not only gave the Town's residents the opportunity to choose between a secluded Town-owned parcel and the more visible 137 Boston Post Road (BPR) site, but also allowed the Town to craft a stringent set of conditions that will apply to the construction, operation, maintenance and removal of the proposed tower if it is ultimately built at 137 BPR.

Why did the Town's attorneys believe the Town would lose this case?

In Judge Keeton's decision rendered in the Nextel case, he concluded that Wayland was "hostile" to wireless carriers. Despite having created a wireless district (located out by the old and new landfills) in May 1999, no carriers have ever expressed interest in locating their facilities in such district.

Given that nothing has changed since Judge Keeton's decision was issued, i.e., there still are no wireless communications towers in Wayland, the Town's attorneys believed it was likely that Judge Wolf would rule in favor of New Cingular and Horizon Towers' request for the variances and permits necessary to construct their tower at 137 BPR.

Why couldn't the Town get the wireless providers to locate their antenna in the existing wireless district?

The carriers have cited the close proximity of the existing tower located in Sudbury's landfill, the restrictive nature of the Town's by-law and difficult and complex construction issues given the surrounding wetlands and other environmental considerations as the primary reasons for why the Town's wireless district doesn't work for them.

Why was Reeves Hill chosen as an alternate site for the proposed cell tower?

The Selectmen and ZBA believe that the Reeves Hill site is a very good alternative that merits serious consideration as:

(1) The facility would be located in a densely-wooded area that is not visible from most locations in Town and, to the extent visible, not much more visible than the existing tower located on the site;

(2) A wider area of Town can be covered by the providers that choose to locate their facilities on Reeves Hill, including the Mainstone Farm condominiums whose residents have been asking the Selectmen for improved wireless service for a number of years, particularly in light of the large elder population who have come to

rely on their cell phones for emergency use should their regular phone system fail and for those residents who have chosen cell service over traditional "land line" service for their home use;

(3) It allows for a taller tower (approximately 180') that can accommodate up to four carriers, thereby reducing the likelihood that a second tower will be required to provide service to the coverage gap identified by the wireless carriers, i.e., along the Route 20 corridor between the Weston border and Town Center;

(4) It presents an opportunity for the Town to improve its emergency services communications facilities at a relatively low cost, i.e., the Town will not be charged rent to locate its antennas on the proposed tower and New Cingular and Horizon Towers will pay to remove the existing tower;

(5) Existing utilities and access, along with a cleared area of the site, provide for minimal disruption to the surrounding woodlands; and

(6) It would enable the Town to receive rental income from leasing a small portion of the Town-owned land.

Why weren't abutters to Reeves Hill and 137 Boston Post Road included in the settlement discussions?

As is customary in litigation, settlement discussions were held with representatives of the defendants, the Selectmen and ZBA, and the plaintiffs. The Selectmen and the ZBA negotiated a settlement that they believe is in the best interest of the entire Town. The ultimate location of the proposed wireless communications tower will be decided by a vote at Special Town Meeting.

Do the Water Commissioners support using a portion of Reeves Hill for wireless communications purposes?

Yes. On July 6, 2005, the Water Commissioners voted in favor of making a portion of the Town-owned land on Reeves Hill available for wireless communications purposes.

If the Town makes Reeves Hill available to the wireless providers, is there still a chance that the proposed tower may be built at 137 Boston Post Road?

Yes. Not only must the Town make the Town-owned land at Reeves Hill available for use, New Cingular and Horizon Towers must actually be able to build their tower within three months of the issuance of a building permit at a cost that is not more than 20% in excess of the estimated construction cost of such tower, i.e., $195,000.

Examples of the factors that might cause New Cingular and Horizon Tower to not be able to proceed at the Reeves Hill site include (i) any finding of adverse effect on historical or archaeological resources at or in the vicinity of the Reeves Hill site by the Massachusetts Historical Commission, (ii) a legal appeal by any person that prevents the construction of the tower, (iii) the presence of any threatened or endangered species, wildlife habitat, vernal pool, perennial stream, or other environmental condition at or near the Reeves Hill site, (iv) a material breach of the lease agreement by the Town, (v) the inability on reasonable terms to bring necessary telephone and electric utilities to the proposed location on the Reeves Hill site, and (vi) radio frequency, constructability and legal problems not reasonably known at the time the parties entered into the settlement agreement.

What prevents Horizon Towers from building a tower at 137 Boston Post Road even if it is able to construct a tower at Reeves Hill?

The settlement agreement provides that for a period of two years after executing the settlement agreement, Horizon Towers or its affiliates shall not file an application to the Town of Wayland for another wireless communications tower within a one and one-half mile radius of the tower at Reeves Hill or the 137 BPR site to the extent such site would be located within the Town of Wayland, unless Horizon Towers first notifies the Town

that such a facility is necessary to provide personal wireless services and the Town agrees to the filing of an application, which agreement shall not be unreasonably withheld.

Proposed By-Law

What happens if the proposed zoning overlay district by-law for Reeves Hill is not approved at Special Town Meeting?

New Cingular and Horizon Towers will be issued a building permit for their proposed facility at 137 BPR, subject to stringent conditions governing the construction, operation, maintenance and removal of the tower.

Can the proposed by-law be amended at Special Town Meeting?

Yes. It should be noted, however, that if the by-law approved at Special Town Meeting is not substantially in the form contained in the settlement agreement, i.e., material changes, alterations, or amendments are approved which would delay, prevent or impair the construction, operation, maintenance or use of a 180' four carrier monopole, then New Cingular and Horizon Towers will be issued a building permit for their proposed facility at 137 BPR, subject to stringent conditions governing the construction, operation, maintenance and removal of the tower.

If the zoning by-law passes at Special Town Meeting and is not approved by the Attorney General, what happens?

In the event the Massachusetts Attorney General disapproves the zoning amendment in whole or in part, then New Cingular and Horizon Towers will be issued a building permit for their proposed facility at 137 BPR, subject to stringent restrictions governing the construction, operation, maintenance and removal of the tower, unless the portion or portions of such zoning amendment not approved do not inhibit the construction, operation, maintenance and use of the proposed Reeves Hill tower.

Why does the proposed by-law not require the wireless providers to secure a special permit from the Planning Board or Zoning Board of Appeals?

The only way to reach a settlement with New Cingular and Horizon Towers was to agree to a zoning by-law that allowed the "as of right" construction of a single, four carrier monopole. In lieu of a special permit process, the Town got New Cingular and Horizon Towers to agree to a stringent set of conditions that will govern the construction, operation, maintenance and removal of the tower on the Reeves Hill site.

How does the proposed by-law compare to the Town's existing by-law covering the current wireless district?

A number of the provisions of the Town's current by-law are contained either in the proposed by-law or the special conditions governing the construction, operation, maintenance and removal of the proposed tower.

In addition to the proposed zoning by-law, what other conditions will be imposed on the wireless carriers at Reeves Hill?

New Cingular and Horizon Towers agreed to a stringent set of conditions governing things such as structural integrity, radiofrequency (RF) emissions, monitoring, construction traffic control, construction inspections, construction, maintenance, removal, screening, fencing and landscaping, lighting and noise, concealment, signage, indemnification, corrosion protection, liability insurance, and removal bond.

What type of conditions will be imposed on the wireless carriers if they are permitted to build their facilities at 137 Boston Post Road?

New Cingular and Horizon Towers agreed to a stringent set of conditions governing

things such as structural integrity, radiofrequency emissions, monitoring, construction traffic control, construction inspections, construction, maintenance, removal, screening, fencing and landscaping, lighting and noise, concealment, signage, protection of the existing leach field and septic system, corrosion protection, liability insurance, and removal bond.

Proposed Lease

What is the process for awarding a lease at Reeves Hill?

The Town issued a Request for Proposals (RFP) on September 7, 2005. Responses to the RFP are due back to the Town no later than October 7, 2005. The lease must be awarded no later than October 17, 2005. The awarding of the lease is subject to approval by the Town at Special Town Meeting. The lease will be awarded to the respondent who meets the evaluation criteria set forth in the RFP, submits the required documents, has the demonstrated experience and resources to fulfill the requirements of the RFP, and best meets the comparative evaluation criteria.

What happens if New Cingular and Horizon Towers are not awarded the lease?

New Cingular and Horizon Towers will be issued a building permit for their proposed facility at 137 BPR, subject to stringent conditions governing the construction, operation, maintenance and removal of the tower.

How much of Reeves Hill will be leased?

Approximately 4,000 square feet.

How long a lease will the Town and the winning bidder enter into?

A ten-year lease with eight five-year options to renew.

Proposed Facilities

Why is a 180' tower needed at Reeves Hill when a 120' tower was proposed for 137 Boston Post Road?

The proposed tower at Reeves Hill is expected to handle up to four carriers and the Town's emergency communications antenna while the proposed tower at 137 BPR will handle only three carriers. In addition, the Reeves Hill tower is expected to not only cover the gap along Route 20, but also provide coverage to Mainstone Farm. Given the above and the topography around Reeves Hill, it was determined that a 180' foot tower would be needed.

How many carriers can locate antenna on the proposed 180' tower?

The proposed 180' tower at Reeves Hill is expected to handle up to four carriers along with the Town's emergency communications antenna.

Will trees have to be removed in connection with the construction of the proposed wireless facilities?

A minimal number of trees are expected to be removed in connection with the construction of the proposed wireless tower on Reeves Hill since the proposed location is in the same general vicinity as the existing 120' tower already located on the site.

Operations

How do we know a tower on Reeves Hill will provide the coverage needed on Route 20 and Mainstone Farm?

Prior to reaching agreement on the height of the tower, New Cingular and Horizon Towers conducted three crane tests to determine the strength of signal from the proposed location on Reeves Hill to the gap along Route 20 and Mainstone Farm. The results of these tests confirmed that a sufficient level of coverage could be provided from a 180' foot tower. These test results were reviewed and the conclusions confirmed by the Town's independent RF engineer.

How will the wireless providers access the Reeves Hill site both for vehicular traffic and for electric and telephone utilities?

An existing driveway, which enters the site from Old Connecticut Path, will provide the primary vehicular access. This driveway was recently paved. It is expected that existing utility poles that run parallel to this driveway will be used for electric and telephone service to the site. New poles, if needed, will be installed at the expense of New Cingular and Horizon Towers.

How will the wireless carriers access their facilities on Reeves Hill in the event the primary driveway is blocked?

An existing entrance to the site off Forest Hill Road will be used for emergency purposes, subject to the permission of the Town's Conservation Commission which permission shall not be unreasonably withheld.

Will the proposed tower have an adverse impact on the Town's water storage facilities?

The Water Commissioners' had their independent consultants review the plans for the proposed tower on Reeves Hill. They do not believe the proposed tower will have an adverse impact on the Town's water storage facilities. In this regard, the settlement agreement requires the Town to submit to the Department of Environmental Protection, on or before November 9, 2005, all necessary documentation and take all necessary actions to satisfy the DEP's Policy No. DWSP98-01 and its Guidance DWSG98-01 which contain certain requirements governing the construction of wireless communication facilities on any land under the control of a public water system.

What type of conditions will govern the radiofrequency emissions from the antenna located at either Reeves Hill or 137 Boston Post Road?

The special conditions for the construction and operation of a tower on either site include a provision governing radiofrequency emissions. This condition basically says that the use of the tower must be fully compliant with federal requirements on radiofrequency emissions and the provisions of the Wayland Zoning Bylaw, §198-1503.2.16, to the extent lawful, reasonable and applicable and not inconsistent with regulations adopted by the Federal Communications Commission.

Will the facilities be secured to protect against unauthorized entry?

Yes. The special conditions for the operation of a tower on either site include provisions governing fencing (8-foot high locked chain link fence topped by three strands of barbed wire) and signage (no-trespassing/private property warning signs), both of which are intended to deter unauthorized entry.

What precautions have been taken to ensure that the proposed tower does not fall down or pieces of the tower or antenna do not fall off?

The special conditions for Reeves Hill require that the proposed 180' foot monopole tower meet the Massachusetts building code provisions for seismic loadings and structural protection from wind and ice and shall be designed to support a height at least 20' above the proposed 180' tower height.

The special conditions for 137 BPR require that the proposed 120' monopole tower must meet the Massachusetts building code provisions for seismic loadings and structural protection from wind and ice and shall be engineered to withstand stress and resist collapse as if it were a 150' tower.

In either case, an independent, Massachusetts registered professional engineer must review all the construction documents, review and approve all quality-control procedures, and inspect the site at appropriate intervals. In addition, inspections and maintenance are required, at least once a year, to ensure the structural and mechanical integrity of the tower.

If the wireless carriers are no longer using the tower, what happens to it?

In either case, within six months of the termination of the use of the tower, Horizon Tower, New Cingular and any other co-locators must remove all of their respective above-ground improvements and generally restore the site to its condition at the commencement of construction (other than the removal of underground foundations).

In the case of Reeves Hill, the Town may choose to accept the tower free of charge in lieu of removal. In such event, the removal bond will be returned to the tower's owner.

Impact on the Town

How much rental income will the Town receive from leasing a portion of Reeves Hill?

It is expected that the Town will receive annual rental income of between $27,000 (for three co-locators) and $35,000 (for four co-locators), increasing at 3% per annum beginning in Year 6 of the lease assuming New Cingular and Horizon Towers are the winning bidders and bid the minimum rental amounts set forth in the RFP.

Is this comparable to what Sudbury and Weston are receiving from leasing their land along Route 20?

No, the minimum rental amounts are somewhat less than what Sudbury and Weston are receiving. However, the Town was unable to negotiate higher minimum rentals given that Horizon Tower's existing lease with the owner of 137 BPR was for an annual rental amount of approximately $12,000 per year in Year 1 with modest increases in the following years.

What will happen to the existing 120' lattice style tower that currently serves the Town's emergency communications needs?

Assuming the Town exercises its rights to install its emergency communications antenna on the new monopole, the existing 120' lattice style tower will be taken down at the expense of New Cingular and Horizon Towers.

Will the Town be insured against any damage caused to its property located on Reeves Hill?

Yes, the tower owner is required to carry general liability insurance with a minimum limit of liability of $5,000,000. The tower owner is also required to indemnify the Town for any damage to the Town's water supply tanks or other structures and equipment in the vicinity of the proposed wireless facilities.

Will the proposed tower be subject to local property tax?

Yes, the RFP states that the tower and related facilities will be subject to an annual local property tax.

How much did the Town spend on the litigation and settlement and will any of these costs be reimbursed by New Cingular and Horizon Towers?

The Town spent approximately $50,000 on the litigation and settlement. If a building permit is issued at 137 BPR, New Cingular and Horizon Towers have agreed to reimburse the Town for $33,750 of its legal expenses incurred in connection with the litigation and settlement. If a building permit is issued at Reeves Hill, none of these expenses will be reimbursable, but the Town will begin receiving rental income of between $27,000 and $35,000 per annum.

Impact on Abutters

Will residents, particularly abutters, be able to see the proposed tower on Reeves Hill?

While Reeves Hill was selected as an alternate site because it is a densely-wooded area that is not visible from most locations in Town, the proposed 180' monopole tower will be seen by at least those who can see the existing 120' lattice style tower. It is likely that others, who are currently unable to see the existing tower, may be able to see some portion of the proposed tower given that it will be 60' taller than the existing tower.

What happens if legal abutters at either site appeal the Town's issuance of a building permit?

If legal abutters appeal the Town's issuance of a building permit at either location and are unable to get a court order preventing the construction from proceeding pending such appeal, it is the Town's understanding that New Cingular and Horizon Towers will proceed with construction at their own risk, i.e., if the abutter's appeal is successful New Cingular and Horizon Towers will have to remove the tower.

Other

Which carriers are likely to be interested in locating on the Reeves Hill tower?

In addition to New Cingular, the Town has been told that Sprint and T-Mobile have expressed interest. Nextel is continuing to pursue the placement of its antenna on BECO #111, so that would leave Verizon as the other potential co-locator although there is no indication that it has expressed a need to site an antenna in Wayland.

Will the proposed tower eliminate the possibility of additional towers in other parts of Town?

No. While allowing the construction of a tower at Reeves Hill will provide coverage to a reasonably large area of Town, it will not provide coverage to the entire Town. It is possible, therefore, that one or more companies may propose locating additional towers elsewhere in Town.

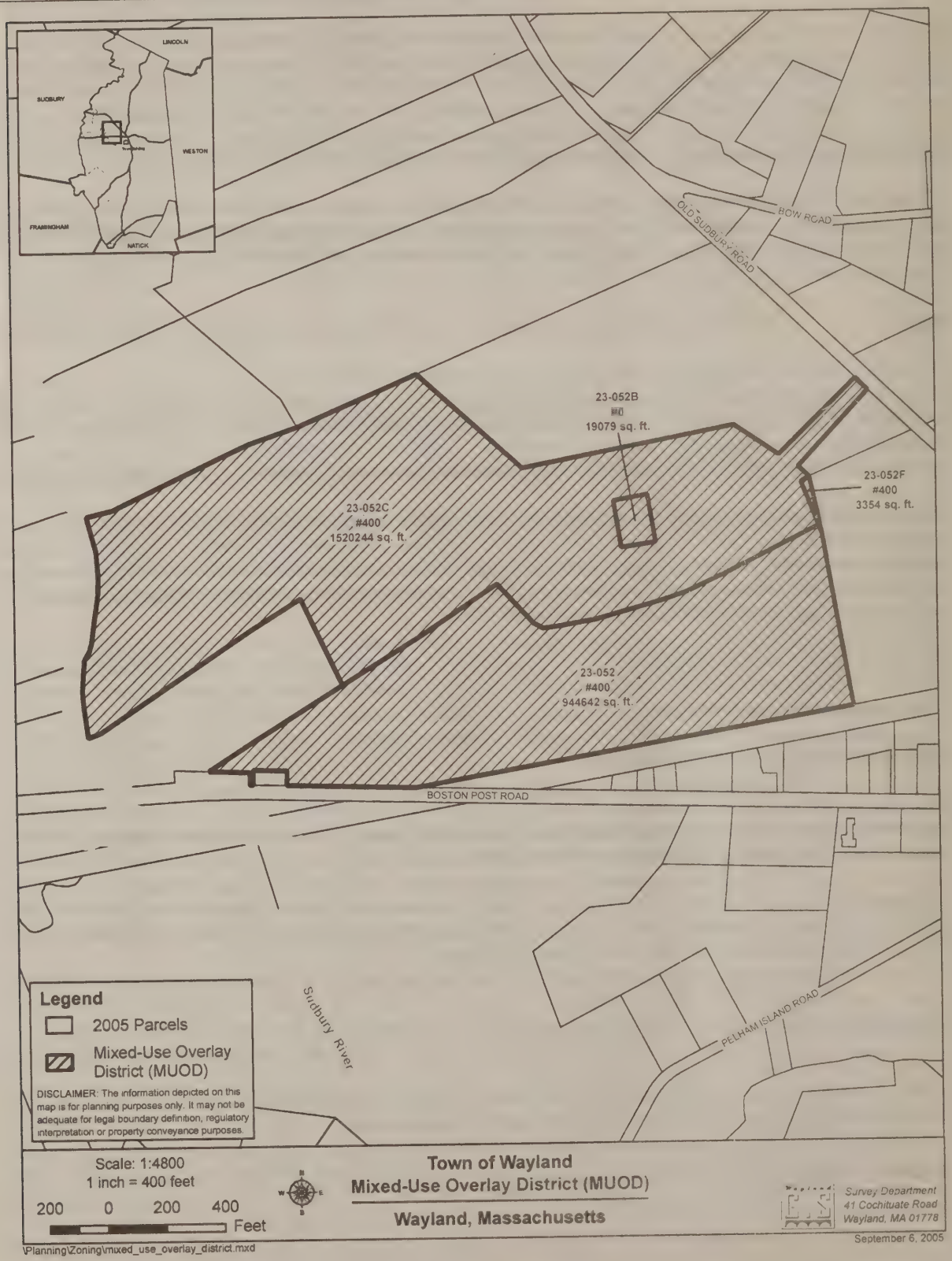
Allowing a tower on Reeves Hill will, however, give the Town a better litigating position should another tower company propose locating a wireless communications facility somewhere outside our existing wireless district or on the proposed Reeves Hill tower.

What is the status of the Nextel litigation?

Nextel is awaiting action on its motion filed with the U.S. District Court on July 25, 2005 in which it is seeking to re-open the Federal case and modify the permanent injunction to require the Town to issue the building permit it needs to begin construction of its antenna on BECO #111.

The abutters to BECO #111 entered their appeal with the Massachusetts Court of Appeals on September 6, 2005. They are attempting to have the Land Court's decision overturned. On April 20, 2005, the Land Court granted Nextel's motion to have the abutters zoning appeal dismissed.

APPENDIX C


LINCOLN
SUDBURY
WESTON
FRAMINGHAM
NATICK
OLD SUDBURY ROAD
BOW ROAD
23-052B
#0
19079 sq. ft.
23-052F
#400
3354 sq. ft.
23-052C
#400
1520244 sq. ft.
23-052
#400
944642 sq. ft.
BOSTON POST ROAD
Sudbury River
PELHAM ISLAND ROAD
Legend
2005 Parcels
Mixed-Use Overlay District (MUOD)
DISCLAIMER: The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition, regulatory interpretation or property conveyance purposes.
Scale: 1:4800
1 inch = 400 feet
200 0 200 400
Feet
Town of Wayland
Mixed-Use Overlay District (MUOD)
Wayland, Massachusetts
Survey Department
41 Cochituate Road
Wayland, MA 01778
September 6, 2005
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APPENDIX D

PLANNING BOARD REPORTS FOR NOVEMBER 2005 SPECIAL TOWN MEETING

WARRANT ARTICLES

The Planning Board, according to Massachusetts General Laws Chapter 40A Section 5, is required to submit to Town Meeting a report on all proposed Zoning Amendments. The following information pertains to the Board's report on STM Article 4.

For any questions or information, contact the Planning Department at 508-358-3615.

Planning Board Report on Special Town Meeting Warrant Article 4

Pursuant to Massachusetts General Laws Chapter 40A, Section 5, on September 29, 2005, the Planning Board held a Public Hearing on a proposed amendment to the Town's zoning by-laws that would add a new Article 23 to Chapter 198 of the Code of the Town of Wayland. The proposed amendment would enable the construction of a mixed-use project combining retail, office, municipal and residential uses on a tract of land at least 50 contiguous acres in size, located wholly within the Town of Wayland.

The proposed amendment, referred to as the "Mixed-Use Overlay District", creates a framework for an overlay district that can be placed on top of existing zoning districts and can override the underlying zoning, insofar as it relates to "uses" which are permitted within the underlying zoning district. Zoning for Flood Plain and Aquifer Protection Districts remains in force.

A second and distinct part of the amendment is to overlay this new Mixed-Use District on a specific tract of land (*i.e.,* the 56-acre former Raytheon property), a portion of which is located in a Limited Commercial District and the remainder of which is located in a Single Residence (30,000 square feet) District. A map showing this land is attached to the proposed zoning by-law amendment.

Based on comments received from the public, the Planning Board has made some revisions to the initial proposal, two of which are worthy of note: 1) the allowed size of the food store may not exceed 48,000 square feet of Gross Floor Area; and 2) the impervious surface of a Mixed-Use Project may not exceed 65% of the upland area of the 50+ acre tract of land to be developed.

Following is a synopsis of statements made by the public, key elements of the Mixed-Use Overlay District ("MUOD") By-Law, comments, and the recommendation of the Planning Board.

Public Comments

The following is a brief summary of comments that were received from the public during public meetings, hearings, forums, and in written submissions.

Supporters of the Zoning By-Law have noted

Potential for net positive revenue for Wayland. If prudently planned and developed, a project in the Mixed-Use Overlay District could result in positive net revenue to the Town. According to the most recent September 20, 2005, report prepared by Judith Barrett, the Town's financial consultant, redevelopment of the former Raytheon site could result in potential net revenue to the Town of approximately $450,000 at full build-out.

Sets aside land for municipal use. Forty thousand (40,000) square feet of Gross Floor Area in each Mixed-Use Project must be dedicated to municipal uses.

Enables projects that combine residential, commercial and municipal uses on a single, contiguous 50+ acre tract of land. Under Wayland's existing zoning regime, there is a separation of areas reserved for residential uses and those reserved for business uses. Adoption of the MUOD By-law would enable the development of a mixed-use project that could include residential uses with retail, service, restaurant, office, and municipal space.

25% of the housing would be affordable. A minimum of 25% of the dwelling units will be affordable, thus helping to grow the Town's stock of affordable housing.

The developers are proposing to build a mixed-use project. Although there is no definitive development proposal before the Town, the current owners of the former Raytheon property on Boston Post Road have expressed a strong desire to re-develop the site consistent with the mixed-use concept.

Opponents of the Zoning By-Law have noted

The process did not allow for sufficient due diligence by town boards and citizens. Ideally, prudent planning should be proactive, not reactive. Planning should start with the Town's vision that has been fully vetted by citizens and town boards, resulting in a zoning by-law that reflects this shared vision. A more precise development plan would have allowed for greater collaboration between town boards and more accurate analysis of the impacts (positive and negative) on the Town. This also would have given the public greater opportunity to provide input.

Increased local traffic, 7 days a week. Any fully built out Mixed-Use Project will potentially add significantly to local traffic on major routes leading to the project as well as on ancillary side roads through neighborhoods ill-equipped to handle any increased speed or volume. The volume of traffic in the Town will potentially increase throughout the day and evening hours, 7 days a week.

The performance standards allow mixed-use projects that are too big for Wayland. The 450,000 square foot maximum allowable size for a Mixed-Use Project is too large for a semi-rural town like Wayland. The maximum allowable sizes of the individual retail, service, restaurant, office, and residential uses are more in line with shopping malls with large national chains and apartment complexes and are too large to promote a quaint, small-town feel.

The overall large size of the combined residential and commercial project will potentially strain Town services including public safety and wastewater treatment. The dense housing of 120 units, some of which will have 3 bedrooms, may place an additional burden on the school district, which is over its preferred 85% capacity limit. Although some of the units will be affordable, 120 units increase the burden of achieving Wayland's 10% affordable housing goal. The actual net gain is a maximum of 18 affordable units, not 30.

Key Elements of the MUOD By-Law

Purpose

1) Promote a range and balance of land uses;
2) Facilitate integrated physical design and encourage interaction among activities;
3) Establish controls which will facilitate development while protecting the public interest by limiting the aggregate amount of development;
4) Permit flexible development on individual lots;
5) Promote site features and layouts conducive to walking and bicycling; and
6) Promote a pedestrian-friendly living and working environment.

Multi-Level Review Process

Concept Plan: A required submittal for a Mixed-Use Project Master Special Permit ("Mixed-Use Project-MSP"), which provides a preliminary site plan for the Mixed-Use Project describing the proposed character, uses, site layout, and public amenities incorporated therein.

Master Special Permit ("MSP"): The purpose of the Mixed-Use Project-MSP is to specify the design, architectural character, site and traffic improvements, mitigation, specific location and uses for buildings, and public amenities of a proposed Mixed-Use Project.

Phase I Site Plan Review: The purpose of a Phase I Site Plan Review is to ensure that any proposed building or site improvement is in compliance with the Mixed-Use Project-MSP and the uses approved therein. A Phase I Site Plan Review, at a minimum, shall include the following components – building design and elevations; signs; landscaping; lighting; parking; and compliance with the Mixed-Use Project-MSP.

Phase II Site Plan Review: The purpose of the Phase II Site Plan Review is to consider: (a) the reuse of any structure for a different use, as long as Table A of the By-law allows such use; and (b) any change in exterior features and site improvements such as signage, facades, landscaping, lighting, parking, so as to ensure that any of those types of changes are consistent with the Mixed-Use Project-MSP, the Phase I Site Plan Approval, and the performance standards set forth in the By-law.

Additional Levels of Review and Approval – Additional Special Permits:

Use Special Permit: Uses in Table A are allowed subject to issuance of a Mixed-Use Project-MSP. Certain uses also must obtain an additional separate Special Permit.

Dimensional Special Permit: A Special Permit is required in order to construct a building in excess of 35 feet in height and up to a maximum of 45 feet in height. A Special Permit is also required for a variation from the minimum setbacks from edge-of-curb and the MUOD perimeter boundary.

Key Performance Standards

Aggregate Limits:

Overall Size Limit:	450,000 square feet of Gross Floor Area (exclusive of Wastewater Facility)
Non-Residential Limit:	200,000 square feet of Gross Floor Area (between 5% and 10% must be office and the remainder must be retail)
Municipal:	40,000 square feet of Gross Floor Area

Residential Limit:	210,000 square feet of Gross Floor Area -- no more than 120 dwelling units with no more than 240 bedrooms; at least 70% of all dwelling units shall be two-bedroom units; no unit shall have more than three bedrooms
Massing:	Standards are intended to promote design of buildings in a traditional New England style and to create a Mixed-Use Project with an authentic, regional character to its buildings. Any buildings proposed for a Mixed-Use Project shall provide visual relief, generally every thirty (30) feet along the façade of each building, and building design throughout a Mixed-Use Project shall include designs which promote visual relief by including varying roof lines and roof heights. Buildings throughout a Mixed-Use Project shall include a mix of tenants and a mix of buildings containing multiple tenants.
Stormwater:	A Mixed-Use Project must comply with the Stormwater Management Policy of the Commonwealth's Department of Environmental Protection (DEP) as well as other federal, state, and local laws, rules, regulations, and by-laws.
Open Space:	The application requires a plan showing at least 2 acres of contiguous upland open space to serve as a public commons and additional suitable open space throughout the Project to serve public purposes. There is language in the By-law which allows the Planning Board to approve a smaller open space.
Aquifer Protection:	The impervious surface of a Mixed-Use Project may not exceed 65% of the upland area of the tract of land to be developed.
Affordable Housing:	Minimum of 25% of the dwelling units must be affordable, as that term is defined in Massachusetts Department of Housing and Community Development ("MDHCD") regulations.

Planning Board Comments:

The maximum sizes allowed conflict with the Town's desired semi-rural character. The potential is great for introducing problems with traffic, water use, wastewater, and other items. There is a significant risk that the Planning Board will have insufficient power to control these negative impacts and the basic size and character of any proposed development. While crafting the By-law, the Planning Board relied on the execution of a definitive development agreement to capture important issues that would protect the Town, which were otherwise deferred from the By-Law. The absence of a definitive development agreement exposes the Town to risks that are not sufficiently covered by the By-law alone. Town Boards were unduly pressured and the resulting process did not serve the Town's best interest.

Planning Board Recommendation:

The Planning Board recommends against the article, by a vote of 5 to 0.

WARRANT ARTICLE PROCESS: Non-Petitioner Articles

This document is a guide for governmental bodies wishing to include articles in the Warrant for either the Annual Town Meeting (ATM) or Special Town Meeting (STM). No article, other than one submitted by the Moderator, Town Clerk, or the requisite number of petitioners, shall be inserted in the warrant for any Town meeting unless voted by a board, commission, committee, or other governmental body of the Town of Wayland by 4:30 p.m. on the date fixed by the Board of Selectmen for closing of the warrant for such meeting (Town Code §36-3C).

Form of the Warrant Article
All articles should be submitted on the recommended form. Submitted articles may follow the format used in prior warrants, but they must be in original form and not copies. All articles must be in their final form at the time of submission. The sponsor of the article should consult with the appropriate board, committee, commission, counsel, or department head to obtain valid facts and figures, to address any and all legal issues, and to verify the wording of the article prior to submission.

ATM Time Line and Process

Date	Action	Responsibility
December 15, 4:30	*Submit all articles for Annual Town Meeting (on computer disk if possible)* Articles are collected and numbered, and copies are given to the Board of Selectmen and Finance Committee. Sponsors should provide comments and arguments in favor of their articles at the time of submission.	Town Administrator
December 15 - Mid-March	*Review articles, determine their order, vote on which non-petitioner articles to include in the Warrant, vote positions on most articles* The Board discusses substantive articles with sponsors under the board's jurisdiction and often meets with sponsors of other articles.	Board of Selectmen
December 15 - Mid-March	*Review each article and prepare a report for the Warrant* The Committee meets with the sponsors of all articles to discuss the articles' merits, financial implications, and other relevant issues. A member of the Committee is assigned to each article to prepare a report for the warrant, including pro and con arguments and the Committee's recommendation.	Finance Committee
January - Mid-March	*Meet with Finance Committee and/or Board of Selectmen to discuss articles; meet required prerequisites, such as hearings, notification of abutters, reports from other boards* Such discussions help to identify issues that require further work as well as arguments for and against passage.	Sponsor of article (including petitioners)
January - Mid-March	*Review articles for form and legal correctness, add required legal citation(s), indicating the quantum of vote required for passage, prepare final wording of motions*	Town Counsel
February-March	*Hold hearings on articles with zoning By-Law implications* The Planning Board is required to hold hearings on articles proposing zoning changes and to make a report on the floor of Town Meeting.	Planning Board
At least 7 days prior to ATM	*Mail warrant to registered voters*	Town Administrator and staff
7-14 days prior to ATM	*Hold a warrant article hearing after warrant is mailed* A hearing is held to review the warrant.	Selectmen/Moderator/ Finance Committee

Budgets: Following a similar timeline, the Finance Committee sets budget guidelines, meets with all departments to review their budgets, and puts together the omnibus budget, including the five-year capital planning budget. **The Finance Committee reviews the budgets of all elected boards.** The Board of Selectmen reviews the budgets of all departments under its jurisdiction and meets with the Finance Committee for final consideration.

Special Town Meeting (M.G.L. c. 39 § 10): The Board of Selectmen must vote to hold a special town meeting. The Board sets the date for the meeting, usually a minimum of 45 days in advance, and accepts articles for the Warrant for seven days (Town Bylaw §36-3). The above timeline and process should be followed, except that the **warrant** must be mailed to **all households** and posted 14 days prior to the **special town meeting**.

Special town meetings are also called by the Board of Selectmen upon receipt of a citizens' petition with 200 signatures.

ARTICLE FOR ANNUAL TOWN MEETING

SPONSOR_____ DATE RECEIVED_____

TELEPHONE/Day_____

CONTACT PERSON_____ TELEPHONE/Evening_____

BOARD VOTE_____ DATE OF VOTE_____

TITLE_____

COST_____ NO COST _____ COST ESTIMATE AVAILABLE ON_____

TEXT: To determine whether the Town will vote to

COMMENTS

PROS

CONS

SIGNATURE OF CHAIR_____ DATE_____

WARRANT ARTICLE PROCESS
Guide for Petitioners

Citizens have the right to submit articles for consideration by the Town meeting. Such articles must be in writing and signed by ten or more registered voters for Annual Town Meeting (ATM) or 100 or more registered voters for Special Town Meeting (STM), using the attached form. All petitioners' articles must be submitted by December 15th for ATM or by the date stated for submission of articles for STM. All petitioners' articles having the required number of qualified signatures must be included in the Town meeting Warrant by state statute.

The Board of Selectmen and the Finance Committee encourage citizens to work with appropriate Town boards to achieve their goals whenever possible before submitting petitioners' articles.

ATM Time Line and Process

Date	Action	Responsibility
Late November	*Hold a workshop for citizens interested in submitting petition for Annual Town Meeting.* Potential articles and the submission process may be discussed with the Selectmen and experienced volunteers.	Board of Selectmen
December 15, 4:30	*Submit petitioners' articles for Annual Town Meeting (on computer disk if possible)* Articles are collected and numbered, and copies are given to the Board of Selectmen, Finance Committee, Moderator, and Town Counsel. Petitioners are encouraged to provide comments, arguments in favor, and arguments against their articles at the time of submission.	Town Administrator
January - Mid-March	*Review articles, determine their order, vote positions on most articles; may meet with petitioners* The Board may discuss substantive articles with petitioners or attend the Finance Committee's meeting with petitioners.	Board of Selectmen
January - Mid-March	*Study each petitioner's article and prepare a report for the Warrant* The Committee meets with petitioners to discuss their article. They may explore alternative means for accomplishing the article's objective. A member of the Committee is assigned to the article to prepare a report for the Warrant, including pro and con arguments and the Committee's recommendation.	Finance Committee
January - Mid-March	*Meet with Finance Committee and/or Board of Selectmen to discuss article; write report of no more than 150 words to be printed in the warrant if desired and if the Finance Committee prepares a report* Such discussions help to identify issues that require further work on the part of the petitioner as well as to identify arguments for and against passage.	Petitioners
January - Mid-March	*Review articles for form and legal correctness, add required legal citation(s), indicating the quantum of vote required for Passage*	Town Counsel
Approximately 7 days prior to ATM	*Attend a warrant article hearing* Petitioners should attend this hearing to review their warrant articles.	Selectmen with Moderator and Finance Committee
ATM	*Move the article and make a brief presentation on the merits of the article* Movers of articles have a limited amount of time to explain and present arguments in favor of passage of the article (currently 10 minutes). This presentation is made at the procedural (center) microphone. Petitioners may prepare handouts and slides. If the motion differs substantially from the article printed in the warrant, printed copies should be prepared for the moderator and made available for people attending Town Meeting.	Lead Petitioner
ATM	*Consider each article at Annual Town Meeting* Citizens are encouraged to debate the merits of articles, ask questions, and make amendments when appropriate. Amendments should be legibly written for submission to the moderator and made available to people attending Town Meeting.	Town Meeting attendees

INSTRUCTIONS FOR COMPLETING PETITIONERS ARTICLE FORM

Lead Petitioner: The lead petitioner will serve as spokesperson for the article and will be the contact for the Finance Committee and the Board of Selectmen, and by the Planning Board if the petition is a zoning issue.

Date Received: The date received will be stamped on the petition when it is received by the Town Administrator and forwarded to the Town Clerk for certification.

PETITIONERS ARTICLE FOR WAYLAND TOWN MEETING

LEAD PETITIONER_____ DATE RECEIVED_____

DAY PHONE_____ EVENING PHONE_____

TITLE_____

TOWN BOARD/DEPARTMENT AFFECTED BY ARTICLE_____

ESTIMATED COST_____

ARTICLE: To determine whether the Town will vote to

Add comments and pro and con arguments on the next page. Thank you.

#	Print Name Legibly	Signature	Print Street Address
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			

PETITIONERS ARTICLE FOR WAYLAND TOWN MEETING
Page 2

COMMENTS

PRO ARGUMENTS

CON ARGUMENTS

★★★★★★★★★

You are required to serve this Warrant by posting copies thereof, attested by you, at the Town Building, at the Public Library in Wayland Center, at the Cochituate Fire Station or the Cochituate Post Office, and at the Happy Hollow School, and by mailing or delivering a copy thereof addressed to each residence in the Town fourteen (14) days, at least, before the time appointed for the Special Town Meeting.

Hereof, fail not and deliver this Warrant with your return thereon to the Town Clerk on or before October 18, 2005.

Given under our hands and seals this 17th day of October, 2005.

Douglas J. Leard

Joseph F. Nolan, Vice Chair

Alan J. Reiss

Michael L. Tichnor, Chair

William D. Whitney

Selectmen of the Town of Wayland

Charles R. D'Ambrosio

Karl A. Geiger

Cherry C. Karlson, Vice Chair

Robert L. Lentz, Chair

Sam H. Peper

G. Christopher Riley, Chair

Finance Committee

TOWN OF WAYLAND
Board of Selectmen
41 Cochituate Road
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www.wayland.ma.us

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